



General Assembly

Distr.: General
30 June 2014

Original: English

Human Rights Council

Twenty-third session

Agenda items 2 and 8

Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General

Follow-up and implementation of the Vienna Declaration
and Programme of Action

Activities of the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights in accrediting national institutions in compliance with the Paris Principles

Report of the Secretary-General*

Summary

The present report is submitted pursuant to Human Rights Council resolution 23/17 of 23 June 2013 and contains information on activities carried out from May 2013 to March 2014 by the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights in considering and reviewing applications for accreditation and reaccreditation of national human rights institutions.

* The annex to the present report is circulated as received, in the language of submission only.

GE.14-06883 (E)



* 1 4 0 6 8 8 3 *

Please recycle A recycling symbol consisting of three chasing arrows forming a triangle.



Contents

	<i>Paragraphs</i>	<i>Pages</i>
I. Introduction.....	1-4	3
II. Improvement of the International Coordinating Committee accreditation process	5-12	3
III. Accreditation process in 2013 and the first session of 2014	13-22	5
IV. Conclusions and recommendations	23-31	7

Annex

Status of national institutions accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights	8
--	---

I. Introduction

1. The present report is submitted pursuant to paragraph 29 of Human Rights Council resolution 23/17, in which the Council requested the Secretary-General to report to the Human Rights Council at its twenty-seventh session on the activities of the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights in accrediting national institutions in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).
2. The report includes activities and achievements since the report issued in 2013 on the accreditation of national human rights institutions (A/HRC/23/28).
3. The statute of the International Coordinating Committee mandates the Subcommittee on Accreditation to review and analyse the applications for accreditation submitted by national human rights institutions and to make recommendations to the Bureau of the International Coordinating Committee on the compliance of applicants with the Paris Principles. The Subcommittee comprises one representative of an "A" status national human rights institution from each of the four regional groupings of the International Coordinating Committee: Africa, the Americas, Asia and the Pacific and Europe. The members of the Subcommittee are appointed by each regional grouping for a renewable term of three years. The members designate the Chair by consensus, from among themselves, for a renewable term of one year. In accordance with article 6 of the statute of the International Coordinating Committee, meetings of the Subcommittee on Accreditation shall be held under the auspices of, and in cooperation with, the Office of the United Nations High Commissioner for Human Rights (OHCHR).
4. During the period covered by the report, the Subcommittee members were from Canada, France, Mauritania and Qatar. The Chair of the Subcommittee was the chair of the national human rights institution of Qatar. In May 2013, a representative of the national human rights institution of Germany substituted for a representative of the national human rights institution of France, since the latter institution was under consideration for reaccreditation during the Subcommittee session.

II. Improvement of the International Coordinating Committee accreditation process

5. The International Coordinating Committee has introduced various measures to improve its accreditation procedures:
 - (a) The review of national human rights institutions, which is aimed at assessing their effectiveness and performance, has become more rigorous, as it is based on documented evidence provided by the institution under review, as well as on information received from civil society organizations and other stakeholders. The review has also become fairer, since an appeals procedure was included to give institutions an opportunity to challenge the recommendations issued by the Subcommittee on Accreditation;
 - (b) The Subcommittee on Accreditation issues a number of focused and tailored recommendations to the national human rights institution under review, even when it recommends an "A" status;
 - (c) Recommendations by the Subcommittee on Accreditation, once adopted by the Committee Bureau, are made public in the report of the Subcommittee, which is posted on the International Coordinating Committee website (nhri.ohchr.org).

6. Where, in accordance with article 16.2 of the statute of the International Coordinating Committee, it appears that the circumstances of any national human rights institution accredited with an "A" status may have changed in a way which affects its compliance with the Paris Principles, the Chair of the Committee or the Subcommittee on Accreditation may initiate a special review of the accreditation of that institution. Further to special review, the status of national human rights institution can be either maintained or downgraded.

7. With regard to flagrant cases, where the independence and credibility of "A" status national human rights institutions come under threat due to exceptional circumstances, and pending the conclusion of the special review process, article 18.2 of the statute of the International Coordinating Committee stipulates that where, in the opinion of the Chair of the International Coordinating Committee, an exceptional circumstance exists necessitating the urgent consideration of immediate suspension of an accredited "A" status institution, the [Committee] Bureau may decide to immediately suspend accreditation classification of that institution and initiate a special review, pursuant to article 16.2. Article 18.3 describes the procedure to be followed for the immediate suspension of accreditation in exceptional circumstances. As stipulated in article 18.4:

for the purposes of article 18.2 and 18.3, an "exceptional circumstance" refers to a sudden and drastic change in the internal political order of a State such as: a break in the constitutional or democratic order; or a declared state of emergency; or gross violations of human rights; and is accompanied by any of the following: there is a change in the [national human rights institution] enabling legislation or other applicable law that is contrary to the Paris Principles; or there is [a] change in the composition of the [national human rights institution] that is not undertaken in accordance with the established selection and/or appointment process; or the [national human rights institution] acts in a way that seriously compromises its compliance with the Paris Principles.

8. In accordance with the accreditation procedure stipulated in article 12 of the statute of the International Coordinating Committee, the recommendations of the Subcommittee on Accreditation are submitted to the Committee Bureau for it to make the final decision on the accreditation status of the national human rights institutions reviewed, subsequent to the following process:

(a) The recommendation made by the Subcommittee on Accreditation is forwarded to the applicant;

(b) Within 28 days of receipt of the recommendation, the applicant may challenge it by submitting, through OHCHR, a written communication to the Chair of the International Coordinating Committee;

(c) The report of the Subcommittee, including the recommendation, is subsequently forwarded for decision to the Committee Bureau. If any challenges have been received from the national human rights institution reviewed, the challenges, together with the statements of compliance and the summaries prepared by OHCHR of all the documents submitted by the institutions concerned, are sent to the Bureau members to enable them to assess the validity of the challenges;

(d) If within 20 days of receipt of the report and the challenges at least four members of the Committee Bureau from no fewer than two regional groups notify the secretariat that they support the objection to the recommendation of the Subcommittee on Accreditation, the recommendation is referred to the Bureau at its next meeting for decision;

(e) If at least four members from two or more regional groups do not raise any objection to the recommendation within 20 days of its receipt, the recommendations will be deemed approved by the Committee Bureau;

(f) The accreditation decision of the Bureau of the International Coordinating Committee is final.

9. In accordance with the rules of procedure of the Subcommittee on Accreditation, the classifications for accreditation are:

- "A" status: Compliant with the Paris Principles
- "B" status: Not fully compliant with the Paris Principles
- "C" status: Non-compliant with the Paris Principles

10. The Subcommittee on Accreditation also welcomes reports from civil society organizations on the functioning and efficiency of national human rights institutions under review. Such reports are shared with the institutions concerned for their comments or clarification. Summaries of all documentation received from institutions are prepared by the secretariat and shared with the relevant institutions prior to review. National human rights institutions are given one week to point out any factual errors in the summaries. The summaries and comments are subsequently brought to the attention of the members of the Subcommittee.

11. The following may attend meetings of the Subcommittee as observers: representatives of the secretariat of the Network of African national human rights institutions; the secretariat of the Asia Pacific Forum of national human rights institutions; the secretariat of the European Network of national human rights institutions; the Network of the Americas; and the representative of the International Coordinating Committee.

12. The Subcommittee on Accreditation acknowledges the dedicated professionalism demonstrated by OHCHR in assuming the secretariat function and successfully servicing two sessions per year.

III. Accreditation process in 2013 and the first session of 2014

13. The General Assembly, in its resolution 67/163, encouraged the Ombudsman, mediator and other national human rights institutions to request, in cooperation with OHCHR, their accreditation by the International Coordinating Committee in order to enable them to interact effectively with the relevant human rights bodies of the United Nations system.

14. By 23 May 2014, the number of accredited national human rights institutions had reached 106. Of these, 71 had "A" status, 25 "B" status and 10 "C" status (see annex).

15. During the three sessions under review, the Subcommittee on Accreditation issued recommendations emphasizing the need for a clear, transparent and participatory selection process of members of national human rights institutions, as required by the Paris Principles and by the Subcommittee in its general observations on the International Coordinating Committee. It also stressed the importance of the provision of adequate core funding by the State to ensure the independence and financial autonomy of such institutions. In addition, the Subcommittee recognized the importance of members of national institutions being granted immunity against legal liability for actions taken in their official capacity. It furthermore stressed the need for greater cooperation by and engagement of national human rights institutions with regional and international human rights systems.

16. In March 2014, the Subcommittee on Accreditation initiated the practice of deliberating in camera, without the presence of OHCHR, which serves as the secretariat of the Subcommittee meetings. In accordance with article 6 of the statute of the International Coordinating Committee, general meetings of the International Coordinating Committee and meetings of the Subcommittee on Accreditation shall be held under the auspices of, and in cooperation with, OHCHR. Accordingly, OHCHR ought to be present in decision-making meetings of the Sub-Committee.

New applications

17. During the two sessions of 2013 and the first session of 2014, the Subcommittee considered six new applications for accreditation. Further to the Subcommittee's deliberations, the Office for the Protection of Citizens of Haiti and the Netherlands Institute for Human Rights were accredited with "A" status. The Ethiopian Human Rights Commission, the Oman National Human Rights Commission and the National Centre for Human Rights of Slovakia were accredited with "B" status. The decision on accreditation for the Commissioner for Fundamental Rights of Hungary has been deferred to the second session of 2014, pending the receipt of clarification from the institution.

Applications for reaccreditation

18. The Subcommittee on Accreditation reviewed 22 national human rights institutions for reaccreditation, from Afghanistan, Albania, Armenia, Croatia, Egypt, France, Georgia, Germany, Ghana, Guatemala, Malawi, Mongolia, Paraguay, the Republic of Korea, the Russian Federation, Rwanda, Thailand, Timor-Leste, Togo, Uganda, Ukraine and Venezuela.

19. The national human rights institutions of Armenia, Croatia, France, Georgia, Ghana, Guatemala, Rwanda, Timor-Leste, Togo, Uganda and Venezuela were reaccredited with "A" status.

Deferrals

20. The reaccreditation decisions for the national human rights institutions of Albania, Afghanistan, Egypt, Germany, Malawi, Mongolia, Paraguay, the Republic of Korea, the Russian Federation, Thailand and Ukraine have been deferred to future sessions of the Subcommittee on Accreditation, pending receipt of clarification from the institutions.

Special review

21. During the period under review and in accordance with articles 16.2, 17 and 18 of the statute, the Subcommittee on Accreditation conducted a special review of the national human rights institutions of Indonesia and Nepal. Further to its deliberations, the Subcommittee decided that the national human rights institution of Indonesia should retain its "A" status. The A special review of the national human rights institution of Nepal has been deferred to October 2014.

22. In March 2014, the Subcommittee on Accreditation decided to conduct a special review of the national human rights institution of Venezuela in October 2014.

IV. Conclusions and recommendations

23. The Secretary-General commends the Subcommittee on Accreditation for its performance and underscores the dedicated and professional support provided by OHCHR to its work and in the accreditation process.
24. The Paris Principles and the general observations adopted by the International Coordinating Committee which interpret those principles, remain the basis on which the Subcommittee accredits national human rights institutions. In order to do so, in addition to legislation and other documentation submitted by institutions, the Subcommittee invites civil society organizations to provide input on the functioning of institutions under review.
25. With the enhanced role of "A" status national human rights institutions in the proceedings of the Human Rights Council, the Subcommittee on Accreditation is more vigilant and rigorous in granting "A" status, to ensure that only institutions fully compliant with the Paris Principles can make use of the benefits granted to "A" status national human rights institutions in their interaction with the Human Rights Council mechanisms, including the universal periodic review process.
26. The role of OHCHR in acting as secretariat for the Subcommittee and in the holding of the Subcommittee's meetings under its auspices, enhances the credibility of the accreditation process before the international and regional human rights systems. The presence of OHCHR during the decision-making process is instrumental to attesting the compliance of this process with the established rules of procedure, and contributes to its transparency, fairness and rigour.
27. National human rights institutions are urged to implement recommendations emanating from the Subcommittee on Accreditation with a view to enhancing their compliance with the Paris Principles and their effectiveness in discharging their mandate. Governments and other stakeholders, including United Nations entities, are encouraged to assist the national human rights institutions in implementing those recommendations.
28. Newly established national human rights institutions are encouraged to request accreditation by the International Coordinating Committee in order to interact effectively with peer institutions as well as the regional and international human rights system.
29. The interdependence and indivisibility of human rights require that the broad mandate of national human rights institutions, as set out in the Paris Principles and emphasized by the Subcommittee, include the promotion and protection of all rights: civil, political, economic, social and cultural rights.
30. The Paris Principles require that the composition of national human rights institutions and the appointment of their members, by means of election or otherwise, ensure the pluralistic representation of social forces (civil society) involved in the protection and promotion of human rights. The Subcommittee on Accreditation interprets that provision as requiring a clear, transparent, merit-based and participatory selection and appointment process. It is recommended that the selection and appointment process, be formalized in the legislation establishing national human rights institutions and/or in binding administrative guidelines, as appropriate.
31. The Secretary-General encourages Member States and other stakeholders to guarantee through financial contribution the continuation of high-quality servicing of the Subcommittee on Accreditation by OHCHR.

Annex

[English only]

Status of national institutions accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights

Accreditation status as of 23 May 2014

In accordance with the Paris Principles and the Statute of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, the following classifications for accreditation are used by the Committee:

- A: Compliant with the Paris Principles;
- B: Not fully compliant with the Paris Principles;
- C: Non-compliant with the Paris Principles.

*A(R): The category of accreditation with reserve, previously granted where insufficient documentation had been submitted to allow for conferral of "A" status, is no longer in use by the International Coordinating Committee. It is used only for those national human rights institutions which were accredited with this status before April 2008.

Human Rights Council

"A" status institutions (71)

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Asia and the Pacific		
Afghanistan: Independent Human Rights Commission	A	October 2007 – A* November 2008 November 2013 – deferred to October 2014
Australia: Australian Human Rights Commission	A	1999 October 2006 May 2011
India: National Human Rights Commission	A	1999 October 2006 May 2011 – A*
Indonesia: National Human Rights Commission (Komnas HAM)	A	2000 March 2007 March 2012* November 2013 – special review in March 2014 March 2014 – A*

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Jordan: National Centre for Human Rights	A	April 2006 (B) March 2007 (B) October 2007 – A* October 2010 – A
Malaysia: Human Rights Commission (SUHAKAM)	A	2002 April 2008 – recommended to be accredited B November 2009 – A* October 2010 – A
Mongolia: National Human Rights Commission	A	2002 – A(R) 2003 November 2008 November 2013 – deferred to October 2014
Nepal: National Human Rights Commission	A	2001 – A(R) 2002 – A October 2007 – A* November 2008 – A* March 2010 – recommended to be accredited B May 2011 – A November 2012 – special review in May 2013 May 2013 – deferred to November 2013 November 2013 – deferred to March 2014 March 2014 – deferred to October 2014
New Zealand: Human Rights Commission	A	1999 October 2006 May 2011
State of Palestine: Independent Commission for Human Rights	A	2005 – A(R) March 2009 – A
Qatar: National Committee for Human Rights	A	October 2006 (B) March 2009 – A* March 2010 – A* October 2010 – A
Philippines: Philippines Commission on Human Rights	A	1999 March 2007 – deferred to October 2007 October 2007 March 2012
Republic of Korea: National Human Rights Commission	A	2004 November 2008 March 2014 – deferred to October 2014
Thailand: National Human Rights Commission	A	2004 November 2008 November 2013 – deferred to March 2014 March 2014 – deferred to October 2014

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Timor-Leste: Provedoria for Human Rights and Justice	A	April 2008 November 2013
Africa		
Burundi: Commission nationale indépendante des droits de l'homme	A	November 2012
Cameroon: National Commission on Human Rights and Freedoms	A	1999 October 2006 – (B) March 2010 – A
Egypt: National Council for Human Rights	A	April 2006 (B) October 2006 – A October 2011 – deferred to November 2012 November 2012 – deferred to May 2013 May 2013 – deferred to November 2013 November 2013 - deferred
Ghana: Commission on Human Rights and Administrative Justice	A	2001 November 2008 March 2014
Kenya: National Commission on Human Rights	A	2005 November 2008
Malawi: Human Rights Commission	A	2000 March 2007 March 2012 – deferred to November 2012 November 2012 – deferred to May 2013 May 2013- deferred to November 2013 November 2013 – deferred to October 2014
Mauritania: Commission nationale des droits de l'homme	A	November 2009 (B) May 2011 – A
Mauritius: Commission nationale des droits de l'homme	A	2002 April 2008 – A*
Morocco: Conseil nationale des droits de l'homme	A	1999 – A(R) 2001 October 2007 – A* October 2010 – A*
Namibia: Office of the Ombudsman	A	2003 – A(R) April 2006 May 2011
Nigeria: National Human Rights Commission	A	1999 – A(R) 2000 – A October 2006 – A October 2007 – B May 2011 – A

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Rwanda: National Commission for Human Rights	A	2001 October 2007 March 2012 – recommended to be accredited B; given one year to establish compliance with Paris Principles May 2013 – A
Sierra Leone: Human Rights Commission	A	May 2011
South Africa: Human Rights Commission	A	1999 – A(R) 2000 October 2007 November 2012
Togo: Commission nationale des droits de l'homme	A	1999 – A(R) 2000 October 2007 November 2012 – deferred to May 2013 May 2013 – A
Uganda: Human Rights Commission	A	2000 – A(R) 2001 April 2008 May 2013 – A
United Republic of Tanzania: Commission for Human Rights and Good Governance	A	2003 – A(R) October 2006 – A October 2011 – A*
Zambia: Human Rights Commission	A	2003 – A(R) October 2006 October 2011
Americas		
Argentina: Defensoría del Pueblo de la Nación Argentina	A	1999 October 2006 October 2011
Bolivia (Plurinational State of): Defensor del Pueblo	A	1999 (B) 2000 – A March 2007 March 2012
Canada: Canadian Human Rights Commission	A	1999 October 2006 May 2011
Chile: Instituto Nacional de Derechos Humanos	A	November 2012
Colombia: Defensoría del Pueblo	A	2001 October 2007 March 2012 – A*

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Costa Rica: Defensoría de los Habitantes	A	1999 October 2006 October 2011
Ecuador: Defensor del Pueblo	A	1999 – A(R) 2002 April 2008 – A; recommended to be accredited B; given one year to establish compliance with Paris Principles March 2009 – A
El Salvador: Procuraduría para la Defensa de los Derechos Humanos	A	April 2006 May 2011
Guatemala: Procuraduría de los Derechos Humanos	A	1999 (B) 2000 – A(R) 2002 April 2008 May 2013 – A
Haiti: Office for the Protection of Citizens	A	November 2013
Mexico: Comisión Nacional de los Derechos Humanos	A	1999 October 2006 October 2011
Nicaragua: Procuraduría para la Defensa de los Derechos Humanos	A	April 2006 May 2011
Panama: Defensoría del Pueblo	A	1999 October 2006 November 2012
Paraguay: Defensoría del Pueblo	A	2003 November 2008 November 2013 – deferred to March 2014 March 2014 – deferred to October 2014
Peru: Defensoría del Pueblo	A	1999 March 2007 March 2012
Venezuela (Bolivarian Republic of): Defensoría del Pueblo	A	2002 April 2008 May 2013 March 2014 – special review in October 2014
Europe		
Albania: People's Advocate	A	2003 – A(R) 2004 November 2008 November 2013 – deferred to October 2014

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Armenia: Human Rights Defender of Armenia	A	April 2006 – A(R) October 2006 – A October 2011 – deferred to November 2012 November 2012 – deferred to May 2013 May 2013 – A
Azerbaijan: Human Rights Commissioner (Ombudsman)	A	October 2006 October 2010 – deferred to May 2011 May 2011 – recommended to be accredited B; given one year to establish compliance with Paris Principles March 2012 – A
Bosnia and Herzegovina: Institution of Human Rights Ombudsmen	A	2001 – A(R) 2002 – A(R) 2003 – A(R) November 2009 – recommended to be accredited B; given one year to establish compliance with Paris Principles October 2010 – A
Croatia: Ombudsman	A	April 2008 May 2013
Denmark: Danish Institute for Human Rights	A	1999 (B) 2001 October 2007 – A November 2012
France: Commission nationale consultative des droits de l'homme	A	1999 October 2007 November 2012 – deferred to May 2013 May 2013 – A
Georgia: Public Defender's Office	A	October 2007 November 2012 – deferred to May 2013 May 2013 – A
Germany: Deutsches Institut für Menschenrechte	A	2001 – A(R) 2002 – A(R) 2003 November 2008 November 2013 – deferred to October 2014
Great Britain (United Kingdom): Equality and Human Rights Commission	A	November 2008 – A October 2010, special review – A
Greece: National Commission for Human Rights	A	2000 – A(R) 2001 October 2007 – A* November 2009 – A* March 2010 – A*

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Ireland: Irish Human Rights Commission	A	2002 – A(R) 2003 – A(R) 2004 November 2008
Luxembourg: Commission consultative des droits de l'homme du Grand-Duché de Luxembourg	A	2001 – A(R) 2002 March 2009 – A* November 2009 – A* October 2010 – A
Netherlands: Netherlands Institute for Human Rights	A	March 2014
Northern Ireland (United Kingdom): Northern Ireland Human Rights Commission	A	2001 (B) May 2011
Poland: Human Rights Defender	A	1999 October 2007 November 2012
Portugal: Provedor de Justiça	A	1999 October 2007 November 2012
Russian Federation: Commissioner for Human Rights in the Russian Federation	A	2000 (B) 2001 (B) November 2008 – A November 2013 – deferred to October 2014
Scotland (United Kingdom): Scottish Human Rights Commission	A	November 2009 – deferred to March 2010 March 2010 – A
Serbia: Protector of Citizens	A	March 2010
Spain: El Defensor del Pueblo	A	2000 October 2007 November 2012
Ukraine: Ukrainian Parliament Commissioner for Human Rights	A	April 2008 (B) March 2009 – A March 2014 – deferred to October 2014

"B" status institutions (25)

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Americas		
Honduras: Comisionado Nacional de los Derechos Humanos	B	2000 October 2007 (A) October 2010 – special review; recommended to be accredited B; given one year to establish compliance with Paris Principles October 2011 – B
Asia and the Pacific		
Bangladesh: National Human Rights Commission	B	May 2011
Maldives: Human Rights Commission	B	April 2008 March 2010
Oman: National Human Rights Commission	B	November 2013
Sri Lanka: Human Rights Commission	B	2000 October 2007 March 2009
Central Asia		
Kazakhstan: The Commissioner for Human Rights	B	March 2012
Kyrgyzstan: The Ombudsman	B	March 2012
Tajikistan: The Human Rights Ombudsman	B	March 2012
Africa		
Algeria: Commission Nationale de Promotion et de Protection des Droits de l'Homme	B	2000 – A(R) 2002 – A(R) 2003 – A March 2009 – B March 2010 – deferred to October 2010 October 2010 – B
Chad: Commission nationale des droits de l'homme	B	2000 – A(R) 2001 – A(R) 2003 – A(R) November 2009 – B
Congo: Commission nationale des droits de l'homme	B	October 2010
Mali: Commission nationale des droits de l'homme	B	March 2012

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Senegal: Comité Sénégalais des Droits de l'Homme	B	2000 October 2007 – A* October 2010 – deferred to May 2011 May 2011 – deferred to October 2011 October 2011 – recommended to be accredited B; given one year to establish compliance with Paris Principles November 2012 – B
Tunisia: Comité supérieur des droits de l'homme et des libertés fondamentales	B	November 2009
Ethiopia: Ethiopian Human Rights Commission	B	November 2013
Europe		
Austria: The Austrian Ombudsman Board	B	2000 May 2011
Belgium: The Centre for Equal Opportunities and Opposition to Racism	B	1999 March 2010
Bulgaria: Commission for Protection Against Discrimination	B	October 2011
Bulgaria: The Ombudsman	B	October 2011
Norway: Norwegian Centre for Human Rights	B	2003 A(R) 2004 A(R) 2005 A(R) April 2006 May 2011 – deferred to October 2011 October 2011 – recommended to be accredited B; given one year to establish compliance with Paris Principles November 2012 – B
Republic of Moldova: The Centre for Human Rights	B	November 2009
Slovakia: Slovak National Centre for Human Rights	B	2002 – C October 2007 March 2012 – Accreditation lapsed due to non-submission of documentation March 2014 – B
Slovenia: Human Rights Ombudsman	B	2000 March 2010
Sweden: Equality Ombudsman	B	May 2011

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
The Former Yugoslav Republic of Macedonia: The Ombudsman of the Republic of Macedonia	B	October 2011

“C” status institutions (10)

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Africa		
Benin: Commission béninoise des droits de l'homme	C	2002
Madagascar: Commission nationale des droits de l'homme	C	2000 – A(R) 2002 – A(R) 2003 – A(R) April 2006 – status withdrawn October 2006 – C
Americas		
Antigua and Barbuda: Office of the Ombudsman	C	2001
Barbados: Office of the Ombudsman	C	2001
Puerto Rico (United States of America): Oficina del Procurador del Ciudadano del Estado Libre Asociado de Puerto Rico	C	March 2007
Asia and the Pacific		
Hong Kong Special Administrative Region of China: Equal Opportunities Commission	C	2000
Iran (Islamic Republic of): Islamic Human Rights Commission	C	2000
Europe		
Romania: Romanian Institute for Human Rights	C	March 2007 May 2011
Switzerland: Federal Commission for Women's Issues	C	March 2009
Switzerland: Federal Commission against Racism	C	1998 (B) March 2010 – C

Suspended institutions

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Asia and the Pacific		
Fiji: Human Rights Commission	Suspended Note: Commission resigned from the International Coordinating Commission on 2 April 2007	2000 (A) March 2007 – accreditation suspended; documents to be submitted at October 2007 session 2 April 2007 – Commission resigned from the International Coordinating Commission
Africa		
Niger: Commission Nationale des Droits de l'Homme et des Libertés Fondamentales	Removed Note: dissolved in February 2010	March 2010 – removed further to its dissolution in February 2010

Institutions whose accreditation has lapsed

<i>National institution</i>	<i>Status</i>	<i>Year reviewed</i>
Africa		
Burkina Faso: Commission nationale des droits humains	B	2002 – A(R) 2003 – A(R) 2005 – B March 2012 – Accreditation lapsed due to non-submission of documentation
Europe		
Hungary: Parliamentary Commissioner for Civil Rights	B	May 2011 The institution ceased to exist further to the establishment of a new institution – Commissioner for Fundamental Rights
Netherlands: Equal Treatment Commission	B	1999 2004 March 2010 The institution ceased to exist further to the establishment of a new institution – The Netherlands Institute for Human Rights

Institution whose application has been deferred*National institution**Status Year reviewed*

Europe

Hungary:
Commissioner for Fundamental Rights

November 2013 – deferred to October
2014



General Assembly

Distr.: General
24 July 2014

Original: English

Human Rights Council

Twenty-seventh session

Agenda items 2 and 10

Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General

Technical assistance and capacity-building

Technical assistance and capacity-building options for integrating human rights into national policies

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 23/19, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a report on technical assistance and capacity-building options for integrating human rights into national policies, drawing from worldwide best practices in that field.

The report contains information on worldwide practices undertaken by States, with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), in developing and applying suitable methodologies to integrate human rights into national policies and programmes, in accordance with their own particular needs and priorities.

It is based on research undertaken by OHCHR on national and regional experiences in integrating human rights into public policies and programmes, taking into account national legislative frameworks and regional and international human rights instruments.

GE.14-09287 (E)



* 1 4 0 9 2 8 7 *

Please recycle A small recycling symbol consisting of three chasing arrows forming a triangle.



Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction and methodology	1-7	3
II. Framework for technical cooperation	8-19	3
III. National and regional experiences in integrating human rights into public policies and programmes	20-97	5
A. Compliance of State entities and domestic laws, policies and programmes with international human rights standards	20-33	5
B. Ratification of international and regional human rights instruments and review of reservations	34-44	7
C. Establishment and strengthening of judicial and accountability mechanisms	45-55	10
D. Measures to improve access to justice and basic services	56-69	12
E. National systems, inclusive participation in decision-making and development and monitoring of public policies	70-97	14
IV. Lessons learned, challenges and the way forward	98-101	18

I. Introduction and methodology

1. The present report is submitted pursuant to Human Rights Council resolution 23/19, in which the Council requested the Office of the High Commissioner on Human Rights (OHCHR) to prepare a report, to be submitted to it at its twenty-seventh session, on technical assistance and capacity-building options for integrating human rights into national policies, drawing from worldwide best practices in the field, with a view to supporting States in developing and applying suitable methodologies to that end, upon request and according to their own particular needs and priorities.

2. In resolution 23/19, the Council recognized that State action aimed at the full realization of human rights and fundamental freedoms at the national level was made most effective by drawing up and putting into practice national policies to protect and promote human rights in conformity with their obligations under international human rights law.

3. OHCHR cooperates with States and national stakeholders to strengthen national frameworks to promote and protect human rights. This is often done in synergy and partnership with other United Nations entities and international actors, including regional organizations, national human rights institutions, civil society and academia.

4. The present report contains a selection of practices, developed in the context of OHCHR technical cooperation programmes, that have proven effective and have yielded visible results in supporting State efforts to align national policies, strategies and laws with international human rights norms and principles, recommendations and commitments.

5. By strengthening the capacity of State institutions and officials, and bringing national systems and strategies into line with human rights standards, positive change can be achieved to ensure that all human rights are respected, protected and fulfilled.

6. The information contained in the report is based also on the experience of joint efforts under various assistance frameworks and cooperation with regional and subregional organizations, in particular support and results achieved under OHCHR technical cooperation programmes during the period from 2011 to 2014. It illustrates the types of options available to States in integrating human rights into national policies and/or in developing national policies in line with international human rights standards and their international obligations, with the support of OHCHR.

7. In the preparation of the report, information on different experiences, including methodologies used and lesson learned, was gathered from OHCHR headquarters and field presences, regional and country offices, human rights components of United Nations peace missions and human rights advisers to United Nations country teams, working closely with host governments.

II. Framework for technical cooperation

8. Technical cooperation, which refers to both technical assistance and capacity-building, is an integral part of OHCHR programmes.

9. Technical cooperation is aimed at identifying and addressing knowledge and capacity gaps by facilitating constructive dialogue and positive change with national counterparts. It is conducted by OHCHR at the request and with the agreement of States and includes a comprehensive assessment of the human rights situation in a given country, with a view to aligning laws, policies, institutions and practices with international standards and obligations.

10. Technical assistance and capacity-building complement other key OHCHR functions, as set out in General Assembly resolution 48/141.
11. OHCHR engages directly with governments and actively cooperates with all relevant national stakeholders, such as ministries, parliaments, the judiciary, transitional justice mechanisms, security institutions, statistical and information systems, mechanisms for the protection of vulnerable groups and groups that are discriminated against, national human rights institutions, development actors and civil society organizations, to support their role in drawing up and assessing the impact of national policies.
12. Policy processes should be based on a human rights-based approach which upholds the universality, inalienability, indivisibility, interdependence and interrelatedness of all human rights and ensures that decisions and objectives relating to those processes are achieved through participation and inclusion, the rule of law and accountability, non-discrimination and transparency.
13. Effective national policies based on human rights align the priorities and goals of the State with the conditions for its population to enjoy all human rights. The experience gathered over the past 20 years by OHCHR demonstrates that the active and meaningful participation of all sectors of society in debating and developing policies and programmes affecting the population is critical for the success of such processes. In that context, the aim of technical cooperation is thus also to ensure that policy processes and outcomes empower rights holders to assert and claim their rights, and to assist duty bearers in ensuring that those rights are enjoyed by all.
14. Technical cooperation is a vehicle to support States' compliance with their human rights obligations and their follow-up to recommendations made by human rights mechanisms in that regard. Technical cooperation projects are results oriented; they are designed on the basis of dialogue with all relevant stakeholders.
15. Over the years, OHCHR has been providing increasing assistance to United Nations country teams to integrate human rights into their programming strategies, including in the context of joint projects, and to promote a coordinated and coherent United Nations system-wide human rights approach to technical cooperation.
16. OHCHR also supports regional and subregional organizations in strengthening arrangements for the promotion and protection of human rights and in exchanging views on good practices and lessons learned. Such comparative processes strengthen regional cooperation and demonstrate the viability of strategies and the achievability of results.
17. Since the creation of the mandate of the High Commissioner for Human Rights, OHCHR has been working closely with States in support of their efforts to further the enjoyment of human rights for all. Examples of that work are human rights assessments; advisory services, including technical advice on institution building and strengthening legislation and policies; training of trainers; awareness initiatives; national workshops; dialogue facilitation; provision of documentation, publications and web tools; and sharing of good practices from other countries.
18. OHCHR, including through its field presences, promotes inclusive national ownership and sustainability of support efforts.
19. The Board of Trustees which oversees both the Voluntary Fund for Technical Cooperation in the Field of Human Rights and the universal periodic review (UPR) Voluntary Fund for Financial and Technical Assistance, two key financial sources of OHCHR technical assistance, advises the Office on policy and strategic orientation with

regard to technical cooperation. The Board identified several components of effective technical cooperation,¹ which have facilitated the identification of the practices highlighted in the present report. The OHCHR Performance Monitoring System, a results-based management tool, also provided information on how and how well results were reached.

III. National and regional experiences in integrating human rights into public policies and programmes

A. Compliance of State entities and domestic laws, policies and programmes with international human rights standards

Mexico: constitutional reform in the area of human rights

20. The constitutional reform adopted in Mexico in 2011 gave constitutional status to all of the human rights guaranteed in the international treaties to which Mexico is a party. The reform provided the country with a strong new legal framework, opening the way for the harmonization of national legislation and policy with international and regional standards; withdrawal of reservations and interpretative declarations; and opportunities for renewed national dialogue and coordination around human rights priorities. OHCHR supported the Government's efforts towards constitutional reform. Over several years, in the context of a technical cooperation agreement, OHCHR-Mexico supported important initiatives, including the training of judges and the provision of advice to the Supreme Court of Justice on key human rights issues; consultations and advocacy activities promoting consensus within the Federal Congress; and the participation of civil society and academia in relation to issues of common concern.

21. Once the reform was approved, OHCHR-Mexico, in collaboration with the Supreme Court of Justice, the National Human Rights Commission of the Federal District (Mexico City) and the Centro de Investigación Aplicada en Derechos Humanos supported the development of a web-based educational tool, "Reforma DH",² on the implementation of the constitutional reform. Reforma DH is a key methodological tool to promote the implementation of the constitutional reform at the federal and state levels. It comprises nine modules, based on the contents of article 1 of the Constitution, and an add-on module on the sources of international human rights law. The aim of Reforma DH is to assist the implementation of the reform by providing the State and representatives of civil society with the conceptual, analytical and procedural tools necessary to advance the realization of human rights.

Myanmar: adoption of the National Human Rights Commission Law

22. Established in September 2011, the Myanmar National Human Rights Commission (MNHRC) has carried out various activities to promote and protect human rights, including promoting the ratification by Myanmar of core international human rights treaties; handling more than 4,000 complaints; and raising awareness of human rights among the relevant ministries and the general public.

23. OHCHR provided support to MNHRC through activities such as seminars for government staff, parliamentarians and civil society; training for staff and commissioners;

¹ A/HRC/26/51, para. 27.

² "Reforma DH: recurso para la formación en derechos humanos", available from www.reformadh.org.mx.

and enabling greater engagement by MNHRC with civil society and human rights defenders. OHCHR and other stakeholders, including the Asia Pacific Forum of National Human Rights Institutions (APF), the Raoul Wallenberg Institute of Human Rights and Humanitarian Law and international experts on national human rights institutions, consistently recommended that the Government create a legislative basis for the establishment of a national institution in compliance with the Paris Principles, the international minimum standards on national human rights institutions.

24. In 2013, in order to ensure that an independent institution to promote and protect human rights, in line with the Paris Principles, was established by law, OHCHR, APF, international experts and partners, with the active support and involvement of the senior legal adviser in the Office of the President, provided technical cooperation and advice on substantive or procedural elements of the bill, as well as encouraged participation by civil society, before and after its submission to Parliament in August 2013. The Myanmar National Human Rights Commission Law was adopted in March 2014 and promulgated by the President in April 2014.

European Union: supporting the application by European Union member States of a human rights-based approach to trafficking and border control

25. With a view to supporting European Union efforts in implementing the European Union Charter of Fundamental Rights, the OHCHR Regional Office for Europe, together with the United Nations Office on Drugs and Crime (UNODC), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children Fund (UNICEF), the International Labour Organization (ILO) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), provided technical support to a number of European Union entities, including the European Parliament Committee for Women's Rights and Gender Equality, in their efforts to develop a human rights-based directive on preventing and combating trafficking in human beings and protecting its victims. Adopted in 2011, the directive takes into account the contributions by United Nations entities on existing relevant international human rights standards.

26. Following the adoption of the directive, United Nations entities, including OHCHR, continued to provide practical guidance to European Union member States for the application of a human rights-based approach in the transposition of the directive into their national legislation. To that end, OHCHR and its United Nations partners prepared a joint commentary³ on the directive in relation to existing international standards, which was launched at the European Parliament in 2012.

27. OHCHR also provided technical assistance to the European Agency for the Management of Operational Cooperation at the External Borders of Member States of the European Union (FRONTEX) in aligning its policies with the new framework. In close cooperation with the FRONTEX Training Unit and with the collaboration of the European Union Agency for Fundamental Rights, UNODC, UNHCR, UNICEF, UN-Women, the International Organization for Migration, the Organization for Security and Co-operation in Europe and others, OHCHR provided legal and methodological advice for the development of two specialized training packages for border guards, in compliance with international and regional human rights standards.

28. Multidisciplinary teams from FRONTEX, national authorities and law enforcement agencies and United Nations partners, including OHCHR, worked jointly in the context of a

³ OHCHR, UNHCR, UNICEF, UNODC, UN-Women and ILO, *Prevent, Combat, Protect. Human Trafficking: Joint UN Commentary on the EU Directive – a Human Rights-based Approach*, November 2011.

series of technical meetings to ensure the compliance of the training materials with international standards. Technical cooperation work was successful in strengthening synergy among all partners involved.

29. In 2012 and 2013 respectively, the FRONTEX Training Unit launched two trainers' manuals, "Anti-trafficking training for border guards" and "Fundamental rights training for border guards". The two manuals support national-level training of border guards and are aimed at strengthening their practical skills in operationalizing human rights when controlling borders and combating and preventing human trafficking.

Russian Federation: human rights master's degree programme

30. As part of the OHCHR Framework for Cooperation with the Russian Federation and in the context of the second phase (2010-2014) of the World Programme for Human Rights Education, the Human Rights Adviser to the United Nations country team in the Russian Federation has been supporting the education authorities in implementing a human rights master's degree programme.

31. The programme is being implemented by a consortium of three leading universities, namely, the Peoples' Friendship University of Russia, the Russian State University for the Humanities and the Moscow State Institute for International Relations, and is supported by OHCHR, in partnership with the European Centre for Human Rights and Democratization. The consortium was recently extended to include the Kazan Federal University and the Perm State University.

32. The programme contributes to the development among young people and professionals of a culture of human rights, the rule of law and non-discrimination. It is practice oriented and interactive, and is supported by a strong international and national network of international organizations, academia, institutions and business partners.

33. OHCHR cooperates in designing modules and tools, identifying experts and lecturers and providing documentation and publications. Based on the positive experience in the Russian Federation, OHCHR has assisted with the development of human rights Master's programmes in other countries. For instance, in the Plurinational State of Bolivia, the Plurinational School of Administration launched a Master's programme to train civil servants in human rights norms on the prevention of racism and all forms of discrimination.

B. Ratification of international and regional human rights instruments and review of reservations

Lao People's Democratic Republic and Thailand: using the United Nations Development Assistance Framework for follow-up

34. With the start of the second cycle of the UPR in 2012, the OHCHR Regional Office for South-East Asia provided States in the region with support for reporting and following up on UPR recommendations.

35. In this context, OHCHR contributed to strengthening the capacity of the United Nations country teams in the Lao People's Democratic Republic and Thailand respectively, in order to support States' follow-up and reporting efforts in the context of their respective United Nations Development Assistance Framework (UNDAF). Both documents integrate a human rights-based approach and contain specific outcomes geared to assisting the countries in implementing prioritized UPR recommendations, which include mainstreaming human rights in national policies.

36. The provision of support through UNDAF furthers the strengthening of national ownership and commitment, as they are aimed at harmonizing and aligning programming priorities with national development priorities.

Haiti: the Interministerial Human Rights Committee

37. Since 2009, the Human Rights Section of the United Nations Stabilization Mission in Haiti (MINUSTAH) and the Independent Expert on the situation of human rights in Haiti have been encouraging the Government of Haiti to create a national reporting and follow-up coordination mechanism.

38. Pursuant to a decree promulgated by the Prime Minister, the Government established the permanent Interministerial Human Rights Committee (Comité interministériel des droits de la personne) (CIDP) which became operational in May 2013 and replaced the existing ad hoc mechanism. CIDP promotes the ratification of international and regional human rights instruments and the review of reservations thereto, and aims to facilitate timely reporting and improved coordination in following up on recommendations emanating from treaty bodies and other United Nations and regional human rights mechanisms. That includes prioritizing and integrating relevant recommendations with a view to proposing or amending relevant laws, policies and mechanisms to strengthen the protection of all human rights for all the population, including vulnerable groups.

39. The MINUSTAH Human Rights Section, in close collaboration with the Ministry for Human Rights and the Fight against Extreme Poverty, gave advice on the drafting of the terms of reference and the Action Plan (2013-2016) of CIDP. The Action Plan contains detailed steps towards the ratification of or accession to human rights instruments and provided support to the Government with regard to signing the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 16 August 2013, and acceding to the International Covenant on Economic, Social and Cultural Rights on 8 October 2013. The MINUSTAH Human Rights Section provides regular support for the operationalization of the subcommittee on the universal periodic review and for strengthening the capacity and coordination of national stakeholders in gathering information and reporting on progress made in the implementation of UPR recommendations. The Human Rights Section also provided assistance to CIDP in the development of a national human rights action plan.

Paraguay: a web tool for human rights implementation

40. In Paraguay, OHCHR has been supporting the Ministry of Foreign Affairs in seeking innovative ways to engage with human rights mechanisms since 2011. In June 2014, the Government launched the System for Monitoring Recommendations (Sistema de Monitoreo de las Recomendaciones) (SIMORE), a portal that facilitates the systematization of human rights recommendations made by the United Nations human rights mechanisms and the Organization of American States. This public tool⁴ provides direct access to reliable information on the status of implementation of recommendations. By explaining by whom, for whom and how recommendations have been implemented, SIMORE strengthens the transparency and accountability of the State.

41. SIMORE is coordinated by the Human Rights Network of the executive branch of government, led by the Ministry of Foreign Affairs and the Ministry of Justice. More than 50 State officials, including the Ombudsman and the General Prosecutor, contributed

⁴ SIMORE is available from www.mre.gov.py/mdhpy/buscador/home.

information on policies, programmes and indicators⁵ for SIMORE technical files. SIMORE supports the daily work of the Government; the Parliamentary Human Rights Committee intends to use SIMORE to inform its agenda on progress and gaps in legislative reform. The tool is also useful for United Nations country team programming and cooperation activities. Furthermore, the portal is instrumental in strengthening the participation and contribution of non-State actors in the national reporting and monitoring process.

Morocco: the Interministerial Delegation for Human Rights

42. In 2011, with a view to having a standing mechanism aimed at facilitating both timely reporting and coordination with regard to follow-up to recommendations made by human rights bodies, the Government of Morocco established by decree the Interministerial Delegation for Human Rights (DIDH). In line with its Strategic Plan (2012-2016), DIDH is tasked with ensuring coordination between government and other relevant stakeholders, such as the National Human Rights Council and civil society; promoting engagement with the international human rights mechanisms, in line with United Nations country programmes and UNDAF; ensuring reporting deadlines are met and implementing recommendations; ensuring follow-up on the implementation of the national action plan for democracy and human rights; contributing to the integration of a human rights-based approach into national programmes and policies, including through strengthening the capacity of the national administration and other stakeholders, such as the National Human Rights Council, universities and civil society.

43. In 2013, Morocco requested OHCHR support to strengthen government capacity in engaging with international human rights mechanisms and to strengthen its national human rights system. In order to strengthen the capacity of DIHD and other key institutional partners, including Parliament, through a programme of the United Nations Development Group human rights mainstreaming mechanism, the OHCHR Regional Office for the Middle East and North Africa supported national efforts to develop awareness and educational initiatives aimed at the sharing of good practices and the development of training tools and human rights methodologies to follow up on the implementation of recommendations made by international mechanisms.

44. In June 2014, OHCHR organized a training session for trainers, targeting key national stakeholders on the development of indicators to measure compliance with international standards. An initial core group of national trainers was established to guide national partners in developing indicators in line with the country's identified priorities and with recommendations from the UPR, special procedures and treaty bodies. As a result of the training, the Government is considering drawing up a memorandum of understanding to strengthen collaboration between relevant institutions in developing and using human rights indicators.

⁵ In Paraguay as well as in other countries, OHCHR supports the development of indicators in the areas of health, water and sanitation, education and fair trial. See OHCHR, *Human rights indicators: a guide to measurement and implementation*, 2012 (HR/PUB/12/5), available from www.ohchr.org/Documents/Issues/HRIndicators/AGuideMeasurementImplementationCompleteGuide_en.pdf.pdf.

C. Establishment and strengthening of judicial and accountability mechanisms

Togo: integrating a human rights-based approach to transitional justice

45. At the Government's request and within the framework of the 2006 General Peace Agreement, OHCHR supported the process that led to the creation of the Truth, Justice and Reconciliation Commission (TJRC) in February 2009. As the lead entity within the United Nations system in the area of transitional justice, OHCHR, in coordination with the United Nations Resident Coordinator, the United Nations country team, UNDP and international donors, provided advice and capacity-building support by organizing national consultations to strengthen ownership and inclusive participation in the truth, justice and reconciliation process; supporting the drafting of legal and administrative frameworks for the establishment and functioning of the TJRC, in line with international human rights standards; and providing training to TJRC officials and staff.

46. In 2012, the President of Togo officially validated the core report and recommendations of the TJRC. OHCHR, in partnership with some civil society organizations, is preparing a compendium of the TJRC recommendations for wider dissemination and advocacy outreach initiatives, including in rural and remote areas. The Office is working closely with the Ministry of Human Rights on the drafting of a white paper on the implementation of the TJRC recommendations and the establishment of a mechanism to follow up the TJRC, in line with international good practices.

Colombia: strengthening reparation and land restitution processes

47. In 2011, in order to address the need for comprehensive reparation measures for the victims of human rights violations committed in the context of the armed conflict in Colombia, the Victims and Land Restitution Law as well as decree-laws 4633, 4634 and 4635 were adopted. Within the framework of two bilateral cooperation agreements signed in 2012 with the Land Restitution Unit and the Victims Attention and Comprehensive Reparation Unit, OHCHR-Colombia supports the authorities by issuing periodic reports on the status of implementation of the laws. Government partners have underlined the relevance of the recommendations contained in those reports, which provide policy options to improve compliance with international human rights standards, particularly on reparation and restitution.

48. OHCHR technical assistance has improved institutional coordination with a view to supporting the sustainability of land restitution and the exercise of economic, social and cultural rights without discrimination for the returned communities. Between December 2011 and October 2013, 277 rulings were handed down by the tribunals. OHCHR continues to provide support to the authorities in promoting inter-institutional coordination, including at the local level, for the planning and execution of return efforts and the inclusive participation of victims in the development of public policies. A number of serious challenges remain to be addressed, such as the limited capacity to work in areas still affected by internal armed conflict, and violence against claimants and human rights defenders.

El Salvador: regional protocol for the investigation of femicide

49. Following visits by the Special Rapporteur on violence against women, its causes and consequences to El Salvador in 2009 and 2010, the OHCHR Regional Office in Central America provided technical assistance to the Government for drafting the first Comprehensive Law for a Life Free of Violence against Women. The law, which came into

force in 2011, upholds the rights of women through the prevention of and response to violence, and through victim assistance and protection, among other measures.

50. On the basis of the new Salvadoran legal framework, the Office assisted the Office of the Attorney General in the development of a national protocol for the investigation of femicide, which was incorporated into the training curriculum for prosecutors.

51. The El Salvador protocol informed the drafting of the regional protocol for the investigation of femicide, a joint initiative by OHCHR and UN-Women in the context of the Secretary-General's UNiTE to End Violence against Women campaign, with the collaboration of the Federation of associations for the protection and promotion of human rights (Spain) (Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos-España) and Universidad Carlos III, Madrid, among others. The basic structure and content of the regional document were defined in the context of an international workshop at which experts discussed an OHCHR report documenting Latin American experiences, including various procedures and practices relating to the prosecution of femicide.

Tunisia: strengthening the transitional justice process

52. OHCHR, together with the United Nations country team, supported processes leading to the adoption of the new Constitution of Tunisia, which contains provisions in line with international human rights standards on national institutions and on the establishment of bodies relating to elections, justice, human rights and the media.

53. OHCHR-Tunisia has been working closely with the Government, including the Ministry of Human Rights and Transitional Justice, to support the establishment of a transitional justice mechanism in conformity with international standards. OHCHR also regularly advised key government authorities concerning advocacy initiatives and political processes relating to transitional justice, and reinforced the capacities of civil society organizations, in particular victims' groups, on those issues.

54. In cooperation with UNDP and the International Centre for Transitional Justice, the Office provided support to the Technical Committee, which comprised the Ministry of Human Rights and Transitional Justice and a wide range of representatives of civil society organizations, in organizing the national consultations leading to the drafting of a comprehensive transitional justice law.

55. In July 2013, OHCHR and UNDP supported awareness and outreach activities aimed at making transitional justice principles, processes and mechanisms better known to the public, and more specifically to victims and civil society organizations. OHCHR provided technical cooperation and advice on substantive or procedural elements of the draft organic law on transitional justice establishing the Truth and Dignity Commission, which was adopted on 15 December 2013. In June 2014, OHCHR co-organized with the Ministry of Justice, the Ministry of Human Rights and Transitional Justice, UNDP and the International Centre for Transitional Justice, a national conference on the truth-and-dignity experience. Chairpersons and members of truth commissions from countries around the world, including Guatemala, Kenya, Peru, Poland and South Africa, attended the conference and shared their own experiences. In coordination with relevant partners, OHCHR is building the capacity of members of the Truth and Justice Commission in order to assist them in their daily work. The Office is also organizing awareness and training events with the aim of strengthening the transitional justice national network.

D. Measures to improve access to justice and basic services

Senegal: strengthening gender equality by reviewing the nationality law

56. The OHCHR Regional Office for West Africa provided technical advice for the drafting of a new nationality code, based on recommendations of the Committee on the Elimination of Discrimination against Women, with a view to ending the differential treatment of men and women with regard to the transmission of nationality through marriage, childbirth and adoption.

57. In collaboration with the non-governmental organization, Association of Senegalese Women Jurists, OHCHR provided technical assistance for the harmonization of the Family Code with international human rights standards, which resulted in the drafting of a compendium of national laws to be harmonized, based on the recommendations of international human rights mechanisms.

Cambodia: strengthening a rule-of-law culture

58. Since 2012, OHCHR-Cambodia has been providing technical support to the Ministry of Justice in organizing a series of judicial round tables to create opportunities for staff of the Extraordinary Chambers in the Courts of Cambodia (ECCC) to share their experience with fellow judges, prosecutors and lawyers in the provinces. One of the topics discussed at every judicial round table has been pretrial detention. Those discussions led the Ministry of Justice to undertake reform of the pretrial detention process and align the practice of Cambodian national courts with that of ECCC by introducing the requirement that judges must provide detailed reasoning in decisions to detain. That was one of the most successful examples of transfer of good practice from ECCC to the domestic system so far.

59. In 2013, OHCHR launched the first-ever Cambodia-based course for lawyers on the right to a fair trial. The Fair Trial Rights Academy, organized at the Cambodian Lawyers Training Centre in cooperation with the Bar Association, is a three-month course featuring interactive activities, field trips and guest lectures by national and international experts on the Cambodian criminal justice system, including from ECCC, various Cambodian non-governmental organizations and OHCHR. The course is aimed at improving the knowledge of and commitment to fair trial rights of future lawyers; strengthening their relevant legal skills; integrating a new human rights and fair trial rights module into the Lawyers Training Centre programme; and enhancing networking between future lawyers and current practitioners. The Bar Association and OHCHR also continue to co-host the Legal Dialogues Series, an annual programme of interactive workshops which focus on strengthening the quality of legal services. Sessions are developed by the Bar Association, in cooperation with OHCHR, and facilitated by senior national and international ECCC defence and civil party lawyers.

60. In March 2014, to promote the jurisprudence legacy of ECCC, OHCHR launched the Annotated Cambodian Code of Criminal Procedure, which was published with support from the British Embassy in Phnom Penh and the United States Agency for International Development. The result of a three-year research project undertaken by several legal teams from around the world and coordinated by OHCHR-Cambodia, it is the first publication in recent Cambodian history annotating a law with relevant national and international jurisprudence. It constitutes an indispensable tool for legal practitioners and for anyone interested in knowing how the law is applied in practice.

61. The ECCC legacy activities are being developed and implemented largely to ensure the promotion of a culture of the rule of law and human rights, using ECCC as an example of best practice.

Philippines: strengthening housing, land and property rights in the context of natural disasters

62. In November 2013, following a request from the Government of the Philippines, the Inter-Agency Standing Committee issued a level 3 emergency declaration in support of the Philippine population in the aftermath of Typhoon Haiyan/Yolanda. As a member of the Committee, OHCHR deployed 10 human rights officers on a rotational basis. The OHCHR team co-led protection cluster hubs with UNHCR and contributed to the overall efforts of the humanitarian country team.

63. In coordination with the Philippine Department of Social Welfare and Development and the humanitarian country team, OHCHR supported the protection work of relevant national partners, including government agencies, the Commission on Human Rights of the Philippines (CHRP) and civil society organizations. In coordination with CHRP, OHCHR supported the organization of round-table discussions on housing, land and property rights in the context of displacement, and on issues relating to the administration of justice and detention in the context of natural disasters. Several local government authorities, including municipal and city mayors, as well as United Nations partners, non-governmental organizations and national and international emergency assistance teams, participated in those initiatives and contributed to an informed and inclusive national consultation on reconstruction measures in the context of natural disasters taking into consideration human rights aspects.

64. In coordination with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, OHCHR provided significant support for the drafting of the CHRP "Advisory on human rights standards on housing, land and property rights of populations affected by Typhoon Yolanda". The document served as an advocacy tool to guide relevant government efforts at both the national and local levels and support informed consultation of affected communities. It also helped to shape the rights-based common position paper issued by the humanitarian country team, which, together with the CHRP advisory and the outcomes of the round tables, contributed considerably to influencing policy review processes, including review of the policies on no-dwelling zones and no-build zones.

Lebanon: developing a code of conduct for the protection of migrant domestic workers

65. Since 2005, as part of its technical cooperation work to increase the compliance of laws with international human rights standards, the OHCHR Regional Office for the Middle East has been working closely with the Government of Lebanon, ILO and non-governmental organizations to alleviate the hardship experienced by domestic workers in Lebanon. A steering committee was set up to develop a national plan of action. One of the first major achievements of the committee was the drafting of a unified contract, which provided a common set of standards to protect domestic migrant workers. In close consultation with the Ministry of Labour, the Syndicate of Owners of Recruitment Agencies in Lebanon and Caritas Lebanon Migrant Centre, and in coordination with ILO, OHCHR supported the development of a code of conduct for recruiting agencies. Funded by the European Union and the Swiss Agency for Development and Cooperation, that key instrument for the protection of migrant domestic workers was launched in June 2013.

66. The code of conduct provides guidance to recruiting agencies on the rights of migrant domestic workers and includes self-accountability and disciplinary actions for agencies that violate it. It upholds the principles of transparency in business operations; provides comprehensive information about employment conditions in Lebanon and guidelines for the verification of workers' qualifications; and prohibits the placement of

underage persons. Its application through a rigorous implementation mechanism remains essential.

67. That initiative has inspired promising developments in Jordan, where the Government has established a steering committee, made up of the Ministry of Labour, the Ministry of the Interior, the Public Security Force, civil society, OHCHR and other international bodies, to prepare a road map for enhancing the protection of the human rights of migrant domestic workers.

Guatemala: strategic litigation and the Maya programme

68. The Maya programme was established in 2009 to empower indigenous Mayan, Xinca and Garifuna peoples, communities and organizations to achieve stronger negotiating power and participation in public life. It is implemented by OHCHR, UNDP and UNICEF and is overseen by a steering committee comprising representatives of the Ministry of Planning and Programming of the Presidency, OHCHR, UNDP and UNICEF. In the first phase of the programme (2009–2013), 18 indigenous organizations filed cases before administrative or judicial bodies on various issues, including rights relating to land, territory and natural resources, discrimination, access to justice, consultation, self-determined development and cultural rights. Five cases received favourable rulings, and three, for which national remedies have been exhausted, have been submitted to the Inter-American Commission on Human Rights. The remainder were at different stages in the legal process at the time of finalizing the present report.

69. While not always successful, OHCHR interventions, in collaboration with indigenous peoples' organizations, have led to positive outcomes, such as the establishment of a support network for organizations working on indigenous rights and an increased use of national and regional protection systems by those organizations. The Maya programme has also built up the capacity of judicial officials and promoted changes in the legal and political culture of judges as duty bearers, so that they hand down rulings in accordance with international law. A second phase of the project was initiated in 2014.

E. National systems, inclusive participation in decision-making and development and monitoring of public policies

Kenya: integrating human rights into the Medium-Term Development Plan

70. In 2012, the Government of Kenya shared with United Nations partners a concept note and a road map for the preparation of its second Medium-Term Plan for 2013–2017. The development of the second Medium-Term Plan followed the adoption of the 2010 Constitution, which put forward the long-term development goals of Kenya. The Constitution promotes a human rights-based approach in government planning processes, focusing on accountability, participation, the rule of law, transparency and sustainable development.

71. In the context of the "Delivering as One" programme, OHCHR contributed to the United Nations country team's support for the integration of human rights inputs into the second Medium-Term Plan. OHCHR provided inputs to the conceptualization process, supported the thematic working groups on "Governance, judiciary, security and rule of law" and "Gender, vulnerable groups and youth" and developed a policy brief on human rights and equity, highlighting challenges, drivers and opportunities for change through policy and programme interventions.

72. OHCHR also delivered specialized training on human rights for government economists and planners and the secretaries of the 19 sectoral working groups coordinated by the Ministry of Devolution and Planning.

73. OHCHR, the Ministry of Justice and the United Nations Resident Coordinator's office trained key departments on human rights indicators for the second Medium-Term Plan in the areas of health, education, housing, gender, vulnerable groups, governance and the rule of law.

74. With OHCHR support, the Government designated human rights focal points of the Kenya National Commission on Human Rights in all the sectoral working groups.

75. The Resident Coordinator's Annual Report 2013, published by the United Nations Development Group, cited the best practice of Kenya in the area of mainstreaming human rights in national development strategies, plans and processes.

Uganda: implementing a human rights vision of development

76. In 2013, the Government of Uganda launched Uganda Vision 2040, an overarching national planning framework which considers human rights a prerequisite for development. The Vision was developed by the National Planning Authority (NPA) in consultation with other national stakeholders and partners. OHCHR-Uganda contributed to the drafting process. According to the Vision, "Government shall ensure that the human rights-based approach to development is integrated in policies, legislation, plans and programs".⁶

77. NPA requested technical support from OHCHR for the effective integration of human rights into sector and district government development plans and, ultimately, into the second five-year National Development Plan.

78. In that context, OHCHR technical cooperation is being provided in partnership with the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and with funding from Norway. In May 2014, with the support of OHCHR and GIZ, NPA issued new planning guidelines with a human rights-based approach. In order to strengthen the integration of human rights into plans and to identify and refine indicators, OHCHR launched a strategic training programme targeting planning officers, chief administrative officers and community development and population officers from 66 districts and 16 thematic sectors. Training was so well received that NPA requested OHCHR to cover the remaining 46 districts, with UNDP funding.

79. In coordination with UNDP and other United Nations partners, OHCHR has continued to support inclusive consultative workshops at the regional level, enabling local government leaders to address their human rights priorities and concerns have them integrated into the second five-year National Development Plan.

80. The mainstreaming initiative led by NPA strengthened partnership and coordination between national institutions in Uganda, United Nations entities and international partners, such as GIZ, to work together on strengthening national capacities for efficient and quality planning.

Ecuador: human rights in development planning

81. In 2008, the report submitted by the Ecuador within the framework of the first cycle of the UPR clearly defined the inclusion of a human rights-based approach to planning as a priority area for international cooperation. In 2009, the National Secretariat for Planning

⁶ Uganda Vision 2014, p. 108.

and Development (Secretaría Nacional de Planificación y Desarrollo) (SENPLADES) requested OHCHR support for the integration of human rights into national development planning processes and tools.

82. The Constitution of Ecuador states that planning and public policies formulated through participatory approaches are key processes for realizing human rights and promoting social equality cohesion and “good living” (*buen vivir*). The task of OHCHR was also facilitated by the Government’s clear political will and by the work of a solid national planning entity with strong institutional and technical capacity.

83. The effective collaboration between OHCHR and SENPLADES between 2011 and 2013 produced a number of key results, including the Guidelines for the elaboration of sectoral public policy, the Guidelines for the integration of a human rights-based approach in the national development plan and the Atlas of socioeconomic inequalities.

84. The approach used to develop the Guidelines for the elaboration of sectoral public policy followed precise methodological steps, such as identifying specific duty bearers vis-à-vis human rights obligations; unpacking the relevant rights and analysing their dimensions, e.g. accessibility, affordability, availability, quality; and integrating the principles of participation, non-discrimination, transparency and accountability into the policy.

85. Those Guidelines, adopted in 2011 through a ministerial decree, which made their use compulsory, have succeeded in placing the human being at the centre of development planning. The gap between human rights standards and the actual living conditions of the people is viewed as a development challenge.

86. OHCHR and SENPLADES provided specialized training for 120 planning officials of the executive branch of government, which strengthened the capacity of key departments to work together in formulating public policies from a human rights perspective.

87. In 2011, OHCHR and SENPLADES assessed the level of integration of the human rights-based approach into a national development plan, namely the National Plan for Good Living, 2009–2013. Their work resulted in the preparation of Guidelines for the integration of a human rights-based approach in the national development plan, which provide instructions on how to integrate a human rights-based approach into the elaboration, implementation and evaluation of development strategies for targeting the next National Development Plan, for the period 2014–2017.

88. SENPLADES, together with OHCHR and 11 other United Nations entities, the Centro de Planificación y Estudio Social and the Universidad Andina Simón Bolívar, worked together to develop the Atlas of socioeconomic inequalities. The Atlas, which was launched in 2013, constitutes an innovative database that maps persistent gaps in the enjoyment of economic, social and cultural rights in Ecuador. It contains disaggregated information, including by ethnicity, sex, gender, age and region, and creates new social indicators to measure poverty from a multidimensional perspective.

89. The Atlas served as a baseline for the National Strategy for Poverty Eradication and informed the actualization of the National Development Plan for the period 2014–2017. It is expected to guide the formulation of targeted public policies in order to address inequalities.

90. The OHCHR framework on indicators is being used to increase the capacity of the National Development Secretariat and the managers of the National Information System to monitor and evaluate public policies from a human rights perspective.

State of Palestine: a rights-based framework for development

91. In 2011, the Ministry of Justice of the Palestinian National Authority approached OHCHR to request assistance in preparing an action plan that integrated a rights-based framework into national development. Following consultations with the Ministry of Justice and the Ministry of Planning and Administrative Development, it was decided to draw up a document setting out more effective and implementable guidance for the incorporation of human rights into the Palestinian National Development Plan, 2014–2016. The guidance document was prepared by both ministries with the support of OHCHR consultant experts.

92. A national consultation with the relevant government departments and a broad range of Palestinian stakeholders contributed to identifying priority intervention areas and rights-based targets. The guidance document on integrating human rights into Palestinian national development plans was approved and launched in January 2014 by the Ministry of Justice, the Ministry of Planning and Administrative Development and OHCHR, in a formal signing ceremony, thereby strengthening the Government's commitment to the recommendations contained in the document. The guidance document contains significant and far-reaching recommendations, as well as medium- and long-term objectives. Most of the recommendations were integrated into the Palestinian National Development Plan in February 2014, providing for an unprecedented level of integration of human rights in the four sectors of the Plan, namely, social development, economic development, infrastructure and governance.

93. OHCHR in the Occupied Palestinian Territories has been working closely with the Palestinian authorities, as well as with the Palestine Independent Commission for Human Rights and civil society to monitor the implementation of the Palestinian National Development Plan from a human rights perspective.

Serbia: developing a consultation methodology for Roma communities

94. In 2012, the Ombudsman, OHCHR, the Human Rights Adviser of the United Nations country team in Serbia and UNDP issued human rights indicators on education, housing, health protection, employment, re-admission and anti-discrimination to assess government programmes for Roma inclusion.

95. In 2013, OHCHR, in coordination with the City of Belgrade, the United Nations Office for Project Services, the Danish Refugee Council and the Serbian non-governmental organization, Housing Centre for Socially Vulnerable Groups, participated in the implementation of a Roma housing project funded by the European Union.

96. Furthermore, the Human Rights Adviser developed criteria for evaluating locations for Roma social housing in Belgrade, which set out the basic requirements for adequate housing, in line with international standards. The project was designed to address the basic housing needs of targeted Roma families through a human rights complaint process. The Human Rights Adviser has been working in close and constructive cooperation with the Government and municipal authorities, providing technical advice and building trust with all stakeholders.

97. The OHCHR contribution ensured the application throughout the implementation of the project of a human rights-based approach, including a gender dimension and the meaningful participation of all stakeholders concerned in the definition and adoption of decisions affecting their lives.

IV. Lessons learned, challenges and the way forward

98. The experiences documented in the present report bring to light several common aspects relating to the integration of human rights into national policies and programmes that have been developed with the technical support of OHCHR and which could inspire future requests for technical cooperation. The common aspects focus on the manner in which technical cooperation programmes have been designed and implemented, so as to promote national ownership; meaningful involvement of and cooperation between States and non-State actors; institutional building; effective coordination; and application of suitable methodologies. Those are all key components of sustainable technical cooperation programmes, as identified by the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights.

99. Experience has shown that it is essential that all relevant State entities and partners be involved from the onset, so as to foster knowledge, coordination, consensus and, fundamentally, ownership of priorities and strategies. The involvement of all relevant State entities as well as a holistic approach aimed at ensuring that adequate attention is paid to the interdependence and interrelatedness of all civil, political, economic, social and cultural rights are critical to achieving sustainable results and ensuring clear lines of responsibility throughout all the stages of the programme.

100. The meaningful involvement of and cooperation between State and civil society actors, with particular attention to the situation and representation of groups that are discriminated against and/or excluded, is key to ensuring the relevance of programmes as well as greater transparency, legitimacy and accountability.

101. The integration of human rights standards and recommendations from international human rights mechanisms into national policies and programmes requires effective coordination, an analytical framework and a harmonious methodological approach. The establishment of inclusive standing coordination and follow-up mechanisms has proven a useful tool in that regard. All national stakeholders, including civil society actors, play a critical role in both supporting implementation and providing specific thematic expertise to inform the development of sound national policies.

**General Assembly**

Distr.: General
1 September 2014

Original: English

**Human Rights Council
Twenty-seventh session
Agenda items 2 and 10
Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Technical assistance and capacity-building

Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo*

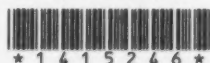
Summary

In its resolution 24/27, the Human Rights Council invited the United Nations High Commissioner for Human Rights to submit a report to its twenty-seventh session on the situation of human rights and the activities undertaken by her Office in the Democratic Republic of the Congo. The present report covers the period from June 2013 to May 2014.

In the present report, the High Commissioner commends the efforts made by Congolese authorities to address serious human rights concerns. In particular, the prosecution of State agents for human rights violations continued to increase, including through mobile court hearings. In addition, in February 2014, the Government promulgated an Amnesty Law for acts of insurrection, acts of war and political offences, excluding amnesty for genocide, war crimes, crimes against humanity and other serious violations of human rights. It is also encouraging that the Government has proposed legislation aimed at establishing specialized chambers within the civilian justice system to try perpetrators of war crimes, crimes against humanity and genocide. The Government further constructively engaged with the United Nations human rights mechanisms.

* Late submission.

GE.14-15246 (E)



* 1 4 1 5 2 4 6 *

Please recycle



Despite these efforts, the High Commissioner remains concerned about the human rights situation prevailing in the Democratic Republic of the Congo, particularly in the eastern provinces. While the defeat of Mouvement du 23 mars (M23), in November 2013, has had a positive impact on the security and human rights situation, the operations of several armed groups to control resource-rich territories still represent a serious threat for civilians, with gross human rights violations being perpetrated, including mass rape.

Numerous armed groups as well as members of the Congolese defence and security forces regularly commit serious human rights violations, particularly in eastern provinces affected by conflict. Armed groups remain a predominant threat in the provinces of North Kivu, South Kivu, Orientale and Katanga, as well as in some areas of Maniema.

The fight against impunity also remains of major concern. The justice system faces various challenges in investigating and prosecuting perpetrators of human rights violations. Military tribunals, where they exist, are often understaffed and under-resourced. The lack of independence of the military justice system from military hierarchy is particularly problematic.

The challenges and threats faced by human rights activists, journalists and political opponents further remain of serious concern, particularly in the lead-up to the 2015 provincial and local elections and the 2016 presidential and legislative elections.

The report reiterates previous recommendations of the High Commissioner, notably with regard to addressing impunity for past and present violations.

Contents

	Paragraphs	Page
List of acronyms		4
I. Introduction.....	1-2	5
II. General trends and major developments affecting the human rights situation throughout the country	3-14	5
A. Violations committed by armed groups.....	4-8	5
B. Violations committed by the defence and security forces	9-14	6
III. Protection of civilians	15-24	7
A. Main concerns	15-20	7
B. Actions taken by the United Nations Joint Human Rights Office	21-24	8
IV. Fight against impunity	25-40	9
A. Main developments	25-34	9
B. Actions taken by the Office of the United Nations High Commissioner for Human Rights	35-40	12
V. Situation of journalists, human rights defenders and political opponents	41-46	13
VI. Update on national mechanisms for the promotion and protection of human rights	47-48	14
A. National human rights commission	47	14
B. National and provincial <i>entités de liaison</i>	48	15
VII. Cooperation with United Nations human rights mechanisms	49-54	15
A. Universal periodic review	49-53	15
B. Review of the Committee on the Elimination of Discrimination against Women	54	16
VIII. Conclusions and recommendations.....	55-59	16
A. Conclusions	55-57	16
B. Recommendations	58-59	17

List of acronyms

APCLS	Alliance des Patriotes pour un Congo libre et souverain
ADF	Allied Democratic Forces
CEDAW	Committee on the Elimination of Discrimination against Women
FARDC	Armed Forces of the Democratic Republic of the Congo
FDLR	Democratic Forces for the Liberation of Rwanda
FRPI	Forces de résistance patriotiques en Ituri
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
M23	Mouvement du 23 mars
NGO	non-governmental organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
PNC	Congolese National Police
UNJHRO	United Nations Joint Human Rights Office

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 24/27 on technical assistance and capacity-building for human rights in the Democratic Republic of the Congo, and is the fourth such report. It provides an overview of the situation of human rights, and of the activities undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the country from June 2013 to May 2014.

2. The report highlights main developments affecting human rights during the reporting period. It then focuses on issues concerning the protection of civilians, the fight against impunity, and the situation of journalists, human rights defenders and political opponents. The report also highlights the Government's efforts to fulfil its obligations vis-à-vis the United Nations human rights mechanisms.

II. General trends and major developments affecting the human rights situation throughout the country

3. Between June 2013 and May 2014, the United Nations Joint Human Rights Office (UNJHRO) registered human rights violations affecting nearly 6,200 victims, 80 per cent of which occurred in the conflict-stricken provinces of North Kivu, South Kivu and Orientale. The most documented type of violations pertained to physical integrity, including torture, inhuman and degrading treatment and sexual violence affecting over 2,400 victims. Sexual violence remains a major concern, with around 310 incidents registered during the reporting period, involving some 730 victims, mostly in North Kivu, South Kivu and Orientale.

A. Violations committed by armed groups

4. During the period under review, combatants of different armed groups, taken altogether, were responsible for nearly 50 per cent of the total number of victims registered by UNJHRO. Members of M23, the Democratic Forces for the Liberation of Rwanda (FDLR), the Allied Democratic Forces (ADF) and Mai Mai groups were among the main perpetrators. The violations were mainly committed during attacks on villages aimed at gaining control over certain territories and/or in retaliation for the communities' real or perceived collaboration with opposing parties.

5. For example, during an attack on 11 December 2013, at least 21 civilians, including 11 children, were killed by ADF combatants in Beni territory, North Kivu province. Most of the victims were first abducted and then brutally killed by machete, some beheaded. They were targeted for their alleged collaboration with Armed Forces of the Democratic Republic of the Congo (FARDC) soldiers.

6. The number of abductions of civilians by armed groups remains alarming. For instance, between 25 August and 22 September 2013, at least 73 civilians, including 13 children, were abducted by armed combatants in three separate incidents in North Kivu. Of those abducted, at least 12 were executed and eight women were raped. Most of the abductions which took place during the reporting period were committed by ADF combatants while a large number of abductions were also reportedly conducted by Nyatura combatants in Rutshuru territory, North Kivu province.

7. In parts of northern Katanga province, hundreds of civilians were victims of serious human rights violations in incidents of violence linked to an insurgency by Mai Mai groups known as "Kata Katanga". Following investigation missions conducted from March 2013

to September 2013, during which over 300 victims and witnesses were interviewed, UNJHRO was able to confirm that at least 59 civilians, including four children, were killed during different attacks by Mai Mai combatants between May 2012 and June 2013. During those attacks, at least 245 civilians, including seven children, were also victims of cruel, inhuman or degrading treatment and other violations of the right to physical integrity. This included the rape of at least 45 women, including five girls. Other human rights violations included the abduction and/or arbitrary or unlawful detention of at least 255 civilians, as well as the destruction, including burning, of houses or entire villages. The UNJHRO teams faced limited access to the affected areas for the documentation and verification of the high number of allegations received throughout the reporting period. The figures mentioned above thus only refer to cases that UNJHRO was able to confirm and probably underrepresents the actual number of human rights violations committed by various combatants.

8. According to preliminary findings of a UNJHRO investigation mission conducted during the reporting period, at least 106 women, including 33 minors, were reportedly raped, at least 100 individuals abducted, and three summarily executed by Mai Mai combatants during attacks on villages in Mambasa territory, Orientale province, between 20 February and 18 May 2014. The majority of those attacks followed the alleged killing of the leader of the group, Paul Sadala alias Morgan, by FARDC soldiers, on 14 April 2014, while he was reportedly surrendering.

B. Violations committed by the defence and security forces

9. Defence and security forces were responsible for serious human rights violations in various parts of the country, including in non-conflict areas — affecting nearly 50 per cent of the total number of victims of human rights violations documented.

10. On 30 December 2013, in Lubumbashi and Kinshasa, 70 civilians were killed, mainly by FARDC soldiers, during a defence and security operation against followers of political opponent and religious leader Joseph Mukungubila, in response to attacks against strategic government installations in Lubumbashi, Kinshasa and Kindu.

11. The results of investigations carried out by UNJHRO in July 2013 showed that FARDC soldiers had also been responsible for killing at least 19 civilians and for other serious human rights violations, including extensive looting, between July 2012 and July 2013, in Katanga province, during operations in Pweto territory against Mai Mai combatants. In an incident on 17 November 2013, in Manono territory, Katanga province, FARDC soldiers allegedly shot to death nine adults accused of being Mai Mai Kata Katanga combatants. In addition, more than 370 cases of looting and destruction of property were reported to have taken place in August and September 2013, during FARDC military operations against Forces de résistance patriotiques en Ituri (FRPI) combatants in several villages in the southern part of Irumu territory, Orientale province.

12. Human rights violations, including arbitrary killings, perpetrated by agents of the Congolese National Police (PNC) were also registered during the reporting period. In this regard, UNJHRO observed that, in the western provinces, the majority of the human rights violations registered between June 2013 and May 2014, had been committed by PNC agents. Moreover, from 15 November 2013 to 15 February 2014, an operation named “Likofi”,¹ organized in Kinshasa to target so-called “kulunas”,² resulted in the summary

¹ “Operation Likofi” means “Operation Punch” in Lingala.

execution of at least nine civilians, including one child, and the enforced disappearance of a minimum of 32 civilians, including three children.

13. The high number of cases of torture and arbitrary and/or unlawful arrests and detention remains of concern throughout the country, including in the western provinces. From June 2013 to May 2014, UNJHRO recorded nearly 950 victims of torture, cruel, inhuman or degrading treatment and other violations of the right to physical integrity, including sexual violence.

14. In May 2014,³ UNJHRO and other United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) components, along with the Vice-Minister of Human Rights, visited 62 detention centres in Kinshasa to monitor arrest procedures and conditions of detention, and to assess their compliance with national and international human rights standards. At least 99 individuals, who had been illegally detained, were released as a result of those visits. UNJHRO also increased awareness activities and training on the prohibition of torture, in collaboration with the Government. Unfortunately, very few cases of torture were prosecuted during the reporting period.

III. Protection of civilians

A. Main concerns

15. The protection of civilians at risk of serious threats to their life and physical integrity remains a priority, particularly in the provinces of North Kivu, South Kivu, Katanga and Orientale, where the Congolese armed forces have been engaged in military operations against armed groups. More than 75 per cent of victims of human rights violations documented by UNJHRO during the reporting period were registered in those provinces.

16. The MONUSCO proactive approach to neutralizing armed groups in eastern Democratic Republic of the Congo, as mandated by Security Council resolutions 2098 (2013) and 2147 (2014),⁴ through the Intervention Brigade, has yielded some positive results in terms of security. Indeed, as a result of the Brigade operations, some armed groups have been significantly weakened or neutralized. This is particularly the case in Rutshuru territory, North Kivu province, which had been under the de facto control of M23 from November 2012 until it was defeated in October 2013. In addition, the increased military pressure on armed groups has forced thousands of combatants to surrender and disarm. As of April 2014, 3,700 combatants have gathered in several transit camps, pending their participation in the disarmament, demobilization, repatriation, resettlement and reintegration programme. Protection issues remain in relation to this process, as former combatants are known to harass and intimidate the local population living around the transit camps. Due to slow progress in implementing the programme, there is a high risk of demobilized combatants returning to armed activities and/or banditry.

17. Human rights concerns also emerged in the context of FARDC and MONUSCO military operations against armed groups. As FARDC have limited capacity to hold an area once it is cleared, this leads to armed groups filling the security vacuum. Furthermore, civilians are often victims of reprisal attacks by parties to the conflict due to their actual or

² "Kulunas" is the term used to describe groups of armed bandits operating in Kinshasa who have allegedly been responsible for various crimes, including killings and armed robbery.

³ The joint visits started in May and ended in June 2014.

⁴ On 28 March 2014, the Security Council adopted resolution 2147 (2014), which renewed the mandate of the Intervention Brigade, granting it the competence to "neutralize" armed groups.

perceived collaboration with one of the parties. Ongoing conflicts in eastern Democratic Republic of the Congo are further complicated by the relationship between some FARDC units and certain armed groups. Indeed, in some cases, FARDC has used certain armed groups as proxy forces against other groups, a tactic that has generated further human rights violations. As an illustration, on 15 February 2014, a patrol of soldiers from the 813th FARDC regiment was reportedly attacked by Alliance des Patriotes pour un Congo libre et souverain (APCLS) combatants in Loashi, Masisi territory. In reprisal, nearly 60 households were burned down in Kasho, almost 90 others in Bonde, and 100 in Bukombo, Masisi territory, by soldiers of the regiment in coalition with Nyatura combatants. Some destruction of property and looting were reportedly committed in those villages during the attacks.

18. Of particular concern is the pattern of attacks and reprisals whereby parties to the conflict target civilians on the basis of their ethnicity. The lack of State authority in conflict areas has pushed some local civilians to create alliances with armed groups, often on ethnic lines, in order to receive protection. Such alliances often trigger attacks by the opposing group. For instance, in February 2014, gross human rights violations were registered in the context of ethnic tension and armed clashes between combatants of the Congolese defence forces (Hunde ethnicity) and Nyatura combatants (Hutu ethnicity) in Masisi territory, North Kivu province. At least 40 civilians perceived to be collaborating with Nyatura combatants were killed in that context, some with firearms and others with machetes. Several villages in the area were reportedly burned down by Nyatura elements in reprisal. Some FARDC elements have also been responsible for attacks against civilians seemingly along ethnic lines. For example, during the reporting period, FARDC elements reportedly committed serious human rights violations against civilians believed to be collaborating with Mai Mai groups in northern Katanga, against civilians of the Ngiti ethnic group, whom they perceived to be affiliated with FRPI combatants in Orientale province, as well as against Hunde civilians in Masisi territory, who are associated with APCLS combatants owing to their ethnicity.

19. The instability linked to armed group activities and FARDC operations against armed groups in the east has continued to trigger mass displacement of civilians. Thus, in January 2014, when FARDC and MONUSCO began launching military operations against ADF in Beni territory, North Kivu province, more than 65,000 people sought refuge around the town of Nobili, with the total number of internally displaced persons in the district reaching 178,000 at the end of March 2014. The humanitarian situation of those persons was further aggravated by the fact that they could not access their fields, their source of livelihood and food, due to military operations and the prevailing insecurity. Humanitarian personnel have also been experiencing difficulties delivering life-saving aid to those areas due to security issues.

20. At the same time the improved security situation in certain territories, such as Rutshuru in North Kivu province, has facilitated the return of some internally displaced persons. Their number thus decreased in all the eastern provinces from 2,964,000 in December 2013 to 2,635,000 in March 2014.⁵

B. Actions taken by the United Nations Joint Human Rights Office

21. UNJHRO has been assigned as the lead component within MONUSCO on protection of civilians, particularly in areas affected by conflict. As such, it contributes,

⁵ Office for the Coordination of Humanitarian Affairs monthly figures, "Democratic Republic of the Congo: internally displaced persons and returnees" (March 2014).

among other things, to the planning and organization of the deployment of Joint Protection Teams, which are interdisciplinary missions comprised of various MONUSCO components. They aim at identifying protection threats, especially those linked to armed conflict, taking measures to mitigate such threats, recommending steps to MONUSCO peacekeeping military contingents and their decision-making bodies on civilian protection issues, and seeking accountability for violations — including as a deterrent to future threats. More than 50 such missions took place during the reporting period, in North Kivu, South Kivu and Orientale provinces. However, UNJHRO has been facing various constraints in that context, particularly lack of access to the most insecure areas.

22. During the reporting period, UNJHRO and other MONUSCO components took action to strengthen military and civilian cooperation during the planning and in the conduct of military operations, with the goal of ensuring the protection of civilians during such operations. To this effect, several civil/military forums were set up to work jointly towards the common objective of reducing threats against the civilian population, with an emphasis on early warning and rapid response functions in areas affected by the conflict.

23. UNJHRO continued to provide support for the effective implementation of the human rights due diligence policy on United Nations support to non-United Nations security forces, which is instrumental in protecting civilians. The policy indeed requires that all United Nations assistance to security forces be conditioned upon respect for human rights, international humanitarian law, and refugee law. In some cases, the implementation of the policy has led to improvements in the behaviour of FARDC troops and has resulted in a generally safer environment for civilians.

24. On several occasions, however, MONUSCO has intervened to remind the FARDC hierarchy that support would be withdrawn from specific units suspected of committing human rights violations should violations continue to be perpetrated and mitigating measures not be taken. Whilst in the short term the policy aims at putting an end to human rights violations, in the longer term it seeks to ensure the accountability of perpetrators and capacity-building of the security forces in matters pertaining to human rights promotion and protection.

IV. Fight against impunity

A. Main developments

25. During the reporting period, some progress continued to be observed in the fight against impunity, more specifically in the prosecution of FARDC and PNC elements, particularly of lower ranks, for acts constituting human rights violations.

26. According to information available to UNJHRO, from June 2013 to April 2014, 175 State and non-State actors were convicted for acts constituting human rights violations. This number included 136 State agents, including 89 FARDC soldiers (comprising 11 senior officers), 44 PNC agents, and two elements of the National Intelligence Agency. The highest number of convictions was for rape, while the second most common conviction was for homicide. Only two individuals were convicted under torture charges during that period.

27. Commitments to address impunity for sexual violence and other human rights violations are encouraging.⁶ Of note are the 13 arrest warrants for international crimes against alleged M23 members or their affiliates issued by Congolese judicial authorities between May and July 2013. At least 10 of those warrants were issued for crimes against humanity, including rape and sexual slavery. Extradition requests for four M23 elements, namely Jean-Marie Runiga and Colonels Zimurinda, Ngaruye and Badege, were addressed to the Government of Rwanda in July 2013, after those individuals had reportedly fled to Rwanda in March 2013.

28. However, many challenges remain in the fight against impunity. Several case files considered important, given the high number of victims, remain unresolved due to lack of action by judicial authorities to hold the perpetrators accountable. For example, investigations have been stalled concerning mass rapes allegedly committed in Bushani and Kalambahiro by FARDC soldiers, and those allegedly committed in Walikale by members of armed groups.⁷ In those particular cases, few arrests have taken place and the judicial authorities have not conducted thorough investigations. In the Bushani and Kalambahiro events, the Military Prosecutor's Office opened a file with the support of UNJHRO. Two officers were questioned and the North Kivu military hierarchy refused to allow more officers to be interrogated and provide any relevant documents to the Military Prosecutor. Concerning the Walikale events, the only alleged perpetrator who was arrested escaped during a mass breakout from Goma prison during the fall of Goma in November 2012.

29. While judicial authorities initiated investigations into some of the violations of human rights and fundamental freedoms committed during the 2011 electoral period,⁸ little progress has been observed with regard to the prosecution of the alleged perpetrators of gross violations committed in Kinshasa in that context.

30. On 5 May 2014, the Operational Military Court of North Kivu delivered its judgement on the *Minova* case⁹ and convicted 26 FARDC soldiers, but most were acquitted regarding charges of rape and their superiors were exonerated from command responsibility. Only two soldiers were convicted for rape, one for murder and the others for charges such as looting and violations of the military code. This is of concern as, based on investigation missions into the case conducted from 30 November to 17 December 2012, UNJHRO confirmed that at least 135 victims, including 33 girls had been raped during the *Minova* incident. Although there is no possibility for appeal, in contravention of

⁶ See MONUSCO/OHCHR report, "Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo" (April 2014), para. 26.

⁷ *Ibid.*, para. 37.

⁸ See MONUSCO/OHCHR, "Report by the United Nations Joint Human Rights Office on the violations of human rights and fundamental freedoms committed during the electoral period in the Democratic Republic of the Congo, as well as on the actions taken by Congolese authorities in response to these violations (October 2011–November 2013)" (December 2013).

⁹ On 20 November 2013, in Goma, the Operational Military Court of North Kivu held its first hearing in the *Minova* case pertaining to serious human rights violations, including mass rape, committed by FARDC soldiers in Minova and surrounding areas, Kalehe territory, South Kivu province, between 20 November and 2 December 2012. Thirty-nine FARDC elements, including seven senior officers, were accused of crimes against humanity and war crimes of rape, as well as other crimes and military offences. MONUSCO provided technical advice to the prosecution, as well as assistance concerning the security and protection of victims and witnesses, in coordination with international partners.

international humanitarian law and human rights law standards¹⁰ and the Constitution, the victims' lawyers have filed an appeal against the judgement.¹¹

31. The *Minova* case underscores the persistent challenge of ensuring the accountability of military superiors, including for the misconduct of units under their command. It also highlights the limitations of the judicial institutions in prosecuting the crime of rape, as well as the lack of thorough judicial investigations into grave crimes. Many other cases of serious human rights violations have remained unpunished and/or related investigations have been marked by prolonged delays.¹²

32. For instance, in the *Chebeya* case,¹³ the appeal proceedings that opened in 2012 before the highest military court (Haute Cour Militaire) were suspended in May 2013, following the submission of the victims' lawyers regarding a procedural error in the judicial notice to the accused. As required by the Constitution, the Haute Cour Militaire suspended its hearings on the appeal case, pending a decision from the Supreme Court which has exclusive jurisdiction to hear any constitutional challenges. There is no information as to when the Supreme Court will act upon the case.¹⁴

33. During the reporting period, the Government had not taken any action to establish a reliable vetting mechanism for its security forces, although various United Nations human rights mechanisms¹⁵ have consistently called for measures to ensure that human rights violators are not maintained within, or integrated into, the security forces. Consequently, individuals suspected of committing gross human rights violations remain within the armed forces, including senior officers.

34. During the universal periodic review of the Democratic Republic of the Congo on 29 April 2014, the Minister of Justice and Human Rights announced that a new version of the draft law on specialized chambers had been submitted to Parliament. In May 2014, the bill was sent back by Parliament on the grounds of constitutional concerns. Further to the ratification by the Democratic Republic of the Congo on 11 April 2002 of the Rome Statute of the International Criminal Court, legislation which would implement the Rome Statute into national laws remains to be adopted. Ideally, the two bills should be discussed by Parliament in a manner that ensures their complementarity and avoids the creation of legal gaps or contradictions.

¹⁰ See International Covenant on Civil and Political Rights, art. 14.

¹¹ See OHCHR, Spokesperson for the United Nations High Commissioner for Human Rights, Press briefing notes on Ukraine, Nigeria and Democratic Republic of the Congo, 6 May 2014.

¹² See MONUSCO/OHCHR report, "Progress and obstacles", paras. 36–41.

¹³ Floribert Chebeya and his driver, Fidèle Bazana, were assassinated on 2 June 2010, on the outskirts of Kinshasa. On 23 June 2011, the Military Court of Kinshasa/Gombe convicted five policemen, three of them in absentia, of murder, illegal arrest and detention as well as abduction in that case, but stopped short of finding any criminal responsibility of higher-level police officers, in particular the then Commissioner-General of the Congolese National Police, General John Numbi. All parties to the proceedings, including the State, the defence and the victims appealed against the verdict of the trial court.

¹⁴ In June 2014, acting on behalf of the families of Mr. Chebeya and Mr. Bazana, a group of NGOs led by the International Federation of Human Rights, filed a complaint in Senegal against one of the accused who had reportedly fled to that country after escaping from prison in the Democratic Republic of the Congo.

¹⁵ See Draft report of the Working Group on the Universal Periodic Review (A/HRC/WG.6/19/L.3 of 1 May 2014), para. 133.106; and Committee on the Elimination of Discrimination against Women, Concluding observations of the combined sixth and seventh periodic reports of the Democratic Republic of the Congo (30 July 2014), para. 10 (e).

B. Actions taken by the Office of the United Nations High Commissioner for Human Rights

35. UNJHRO has continued to provide assistance to the justice authorities in the fight against impunity, including technical and logistical support to bring investigators and magistrates to sites where human rights violations have been committed. More specifically, in partnership with the United Nations Development Programme and national and international NGOs, UNJHRO provided support to four missions,¹⁶ conducted by judicial authorities in various parts of the country, to investigate human rights violations, including extrajudicial or summary executions, torture, sexual violence, and arbitrary and/or unlawful arrests and detention.

36. For example, from 6 to 12 January 2014, a joint team, composed of UNJHRO staff members, other MONUSCO colleagues and personnel from the Military Prosecutor's Office were deployed to Irumu territory, Orientale province, to investigate allegations of human rights violations committed in the context of FARDC military operations against FRPI combatants. The investigation resulted in the arrest of 18 FARDC elements who have since been charged with various crimes, including summary executions, rape, arbitrary arrests and illegal detention. Four were released due to lack of evidence.

37. During the reporting period, UNJHRO also provided logistical and technical assistance to three mobile court hearings,¹⁷ in collaboration with other partners. For instance, it provided financial support to mobile court hearings in Kalehe, South Kivu province, from 19 to 28 May 2014. As a result, the South Kivu military court convicted five FARDC soldiers and two PNC agents of sexual violence, issuing sentences ranging from four to 15 years of imprisonment. UNJHRO monitored the trial and observed that due process had been observed. The victims and the accused had legal representation and protection measures were implemented to protect the victims who testified during closed hearings. Besides ensuring accountability, another benefit of such hearings was the visibility of justice in the communities where the violations occurred.

38. The fight against impunity was a prominent item during the visit of the United Nations Deputy High Commissioner for Human Rights to the Democratic Republic of the Congo in August 2013.¹⁸ The Deputy High Commissioner reiterated the OHCHR commitment to assisting the authorities in the fight against impunity for gross human rights violations and discussed how to move forward with prosecutions concerning emblematic cases, including rape cases and other gross human rights violations committed in Walikale and Bushani, North Kivu province, in Ituri, Orientale province, and Minova, South Kivu province.¹⁹ She stressed the need to prosecute all perpetrators of sexual violence, including high-ranking officers.

39. On 25 March 2014, the Human Rights Council, with OHCHR support, held a high-level dialogue on lessons learned and continuing challenges in combating sexual violence

¹⁶ To South Kivu, North Kivu, Equateur and Orientale provinces.

¹⁷ Of the three hearings supported by UNJHRO during the reporting period, two were in South Kivu and one in Equateur province.

¹⁸ From 22 to 28 August 2013, the Deputy High Commissioner, Flavia Pansieri, visited the Democratic Republic of the Congo (see OHCHR press release, "Respect for human rights key to stabilization succeeding in DRC", 28 August 2013, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13667&LangID=E).

¹⁹ See MONUSCO/OHCHR report, "Progress and obstacles", paras. 36–41.

in the Democratic Republic of the Congo.²⁰ The event brought together a broad range of speakers, including the Minister of Justice and Human Rights and the Minister of Gender, Family and Child Affairs of the Democratic Republic of the Congo, the Special Representative of the Secretary-General on Sexual Violence in Conflict, the Deputy Special Representative of the Secretary-General for the Democratic Republic of the Congo and Head of the Rule of Law Component of MONUSCO, the Vice-Chair of the Committee on the Elimination of Discrimination against Women; the Permanent Representative of the African Union to the United Nations in Geneva, one NGO representative and the United Nations High Commissioner for Human Rights. The fight against impunity was discussed, as well as the questions of prevention, multisectoral assistance to survivors, and reparations. Various interventions from Member States conveyed the need for further action to strengthen the justice system, protect victims and witnesses, and ensure the affordability and accessibility of justice.

40. Public reporting has remained a core activity of UNJHRO and has been a tool for contributing to the fight against impunity in the Democratic Republic of the Congo. In addition to the report of the High Commissioner on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo presented to the Human Rights Council in September 2013,²¹ public reports were issued on human rights violations committed on election-related human rights violations,²² and on the fight against impunity for sexual violence.²³ The latter documented more than 3,600 victims of rape perpetrated by State agents, mainly FARDC soldiers, and members of armed groups, and analysed some of the challenges in the administration of justice during 2010–2013.

V. Situation of journalists, human rights defenders and political opponents

41. The situation of human rights defenders and journalists in the Democratic Republic of the Congo remains precarious as, owing to their activities, they continue to be victims of killings, death threats, physical attacks, intimidation, harassment, and arbitrary and/or unlawful arrests and detention by State agents and armed groups. UNJHRO has recorded human rights violations against more than 40 human rights defenders and 20 journalists during the period under review.

42. UNJHRO recorded several cases involving security and defence forces harassing, intimidating, and confiscating equipment from journalists. For instance, in July 2013, in Kolwezi, Katanga province, two journalists from a local television station were beaten and had their cameras confiscated by PNC agents after filming the forced eviction of a family. In another incident, on 20 January 2014, in Goma, North Kivu province, a journalist from an independent radio station was reportedly beaten and his video camera confiscated by an agent of the Republican Guard who had accused him of investigating the illegal allocation of plots on the shores of Lake Kivu to FARDC soldiers.

43. Armed groups also targeted human rights defenders. For example, in August 2013, in Kawankolo, Pweto territory, Katanga province, a human rights activist was reportedly killed by a group of Mai Mai Kata Katanga combatants. The victim had denounced human

²⁰ A summary of the dialogue is available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14435&LangID=E.

²¹ A/HRC/24/33 of 12 July 2013.

²² See MONUSCO/OHCHR, "Report by the United Nations Joint Human Rights Office on the violations of human rights and fundamental freedoms".

²³ See MONUSCO/OHCHR report, "Progress and obstacles".

rights violations allegedly committed in the territory during clashes between FARDC soldiers and Mai Mai Kata Katanga combatants. In March 2014, a female human rights activist and lawyer was found dead in Beni territory, North Kivu province. She had reportedly been stabbed to death by unidentified individuals.

44. Members or supporters of opposition parties have also been exposed to human rights violations. Since June 2013, UNJHRO has recorded around 20 cases of human rights violations committed by State agents against members of the opposition and their supporters. For instance, in February 2014, in Bukavu, South Kivu province, at least 26 civilians, including 10 supporters of the Union pour la nation congolaise, were reportedly injured by PNC agents during a political rally organized by the Union President, Vital Kamerhe. Victims treated at a local hospital suffered from tear gas, gunshot wounds and beatings. Furthermore, Mr. Kamerhe's activities were restricted by the authorities on several occasions and he was denied access to fly from Kinshasa to the east of the country to launch his "caravan of peace".

45. Those developments are particularly worrying in the light of the 2015 local and provincial elections and the 2016 presidential and legislative elections. It is worth recalling that during the 2011 electoral period, the main victims of human rights violations were people identified as political party members or sympathizers, mainly targeted by defence and security forces who aimed at restricting their activities.

46. On 29 April 2014, during the universal periodic review of the Democratic Republic of the Congo, the Government indicated that a draft law on the protection of human rights defenders would be submitted to Parliament for the second time. OHCHR has been supporting NGO initiatives towards the adoption of the bill on the protection of human rights defenders. On 6 and 7 March 2014, UNJHRO, in partnership with the Carter Center, and through the Universal Periodic Review Voluntary Trust Fund, provided technical and financial support for the organization of a workshop aimed at finalizing and validating the bill. The workshop brought together a member of the National Assembly, a senator, legal advisers from the Ministry of Justice, and more than 20 representatives of NGOs or human rights defenders. The workshop provided an opportunity to produce new draft legislation. The High Commissioner encourages the prompt adoption of the bill.

VI. Update on national mechanisms for the promotion and protection of human rights

A. National human rights commission

47. On 21 March 2013, following high-level advocacy by the Ministry of Justice and Human Rights, local human rights groups and UNJHRO, legislation was promulgated establishing a national human rights commission. However, as of June 2014, the Commission had not yet been set up as Parliament had not appointed its members, as foreseen by the law.²⁴ The High Commissioner encourages the Parliament to promptly ensure the appointment of commissioners.

²⁴ Loi organique No. 13/011 du 21 mars 2013 portant institution, organisation et fonctionnement de la Commission nationale des droits de l'homme.

B. National and provincial *entités de liaison*

48. During the reporting period, all provinces of the Democratic Republic of the Congo were equipped with a provincial *entité de liaison*, a forum of discussion on human rights violations involving the authorities and human rights partners, including UNJHRO. The steering committee of the national *entité de liaison* was set up on 25 January 2014 and is chaired by the Prime Minister. However, the *entités de liaison* should be properly financed and resourced in order to be operational.

VII. Cooperation with United Nations human rights mechanisms

A. Universal periodic review

49. The Working Group on the Universal Periodic Review of the Human Rights Council reviewed the human rights situation in the Democratic Republic of the Congo on 29 April 2014.²⁵ UNJHRO organized a live transmission of the session for representatives of the Ministry of Justice and Human Rights, NGOs and the diplomatic community in Kinshasa. On 2 May 2014, the Working Group adopted its final report on the review of the Democratic Republic of the Congo, which contained 229 recommendations. The Government of the Democratic Republic of the Congo accepted 190 of the recommendations.

50. Many States urged the Government to strengthen efforts to combat sexual violence by ensuring that all perpetrators are brought to justice and victims gain increased access to justice. Many also called on the authorities to ensure that the rights to freedoms of expression and peaceful assembly be respected; to enact legislation to give effect to the Rome Statute of the International Criminal Court; and to operationalize the national human rights commission.

51. The recommendations rejected by the Government included a call to abolish the death penalty, and a request to extend a standing invitation to all special procedures mandate holders of the Human Rights Council.

52. The universal periodic review process was supported throughout by UNJHRO. The Office held workshops for Government officials and civil society members in preparation for the review. On 20 and 21 November 2013, in Kinshasa, UNJHRO and the Carter Center organized a workshop for 27 NGO representatives and human rights groups on the submission procedure for NGO contributions to the review. The workshop also served as a platform to discuss the recommendations issued in the 2009 universal periodic review of the Democratic Republic of the Congo and how the second review process could be used to address the most important human rights concerns. From 16 to 20 December 2013, in Kinshasa, OHCHR trained 42 individuals, including members of the Interministerial Committee on Human Rights and NGO representatives, on how to submit reports for the universal periodic review and to the United Nations human rights treaty bodies. On 21 and 22 January 2014, in Kinshasa, UNJHRO held a workshop that included ministers and civil society actors, to review the State report. As a result of UNJHRO efforts, several NGOs submitted quality contributions to the universal periodic review and the Government submitted its State party report to the Human Rights Council in a timely manner.

²⁵ The documents are available from www.ohchr.org/EN/HRBodies/UPR/Pages/CDSession19.aspx.

53. On 15 May 2014, UNJHRO jointly with the Ministry of Justice and Human Rights and two international NGOs, organized a workshop on follow-up to universal periodic review recommendations. In total, 165 persons participated in the event, including Members of Parliament and representatives of the Interministerial Committee on Human Rights, representatives of the diplomatic corps and different ministries, lawyers, journalists and human rights activists.

B. Review of the Committee on the Elimination of Discrimination against Women

54. In July 2013, the Government presented its combined sixth and seventh periodic reports to the Committee on the Elimination of Discrimination against Women. The Committee noted some progress in the area of women's rights, including the adoption of the National Strategy against gender-based violence and the promulgation of the law to establish the National Human Rights Commission.²⁶ However, the Committee raised several concerns, including the shocking levels and nature of violence and sexual atrocities against women, and the lack of a proper vetting process to remove persons suspected of perpetrating serious human rights violations from official positions in the security forces. The Committee raised concerns over high levels of violence and discrimination against women in the entire country, including harmful practices and discriminatory legislation. It recommended that the Government prioritize the fight against impunity for sexual violence and ensure access to justice for all women affected by sexual violence during the conflict.²⁷ The Committee also requested the submission of information, within two years, on the implementation of recommendations to prevent and address sexual violence, to ensure access to justice, and to eliminate discriminatory provisions in the Family Code.

VIII. Conclusions and recommendations

A. Conclusions

55. The Government of the Democratic Republic of the Congo is at a critical juncture on the long journey to improve the human rights situation of people living on its territory. Visible gains have been achieved in enhancing security and stability in eastern Democratic Republic of the Congo, with a positive impact on the human rights situation in some cases. Increased prosecutions of State agents for human rights violations also constitute an important momentum towards justice.

56. Despite some progress, efforts to protect human rights remain hampered by several overarching challenges. One of the main challenges remains the prevalence of impunity for perpetrators of human rights violations, especially high-level FARDC soldiers and leaders of armed groups.

57. Persisting impunity is itself partly due to another major structural challenge, which is the weakness of the justice system, and a general lack of effective accountability mechanisms. The justice system is undermined by deficiencies in conducting investigations, prosecuting perpetrators of human rights violations, and ensuring that prison terms are served. Military tribunals continue to be under-

²⁶ Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo (CEDAW/C/COD/CO/6-7 of 30 July 2013), paras. 5 (c) and 6 (d).

²⁷ Ibid., para. 10 (b)-(c).

resourced and consequently often lack the capacity to investigate and prosecute those responsible for many of the reported cases of human rights violations. More fundamentally, the lack of independence of the military justice system from the military hierarchy is a major concern. Fighting impunity for human rights violations requires coordinated and determined efforts by the executive branch, law enforcement bodies and judicial authorities.

B. Recommendations

58. The High Commissioner recommends that the Government of the Democratic Republic of the Congo:

(a) Address past human rights violations, including through the prompt adoption of the law on the specialized chambers consistent with international standards and, following broad consultations;

(b) Speed up the reform of the security sector, including the establishment of a reliable vetting mechanism, so that perpetrators of human rights violations are not maintained within or integrated into the security forces;

(c) Ensure that the future national human rights commission is operational through the prompt appointment of its members and appropriate financial and logistical capacity support for its effective functioning, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);

(d) Ensure the implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and accordingly, and with the assistance of the Subcommittee on the Prevention of Torture established in the context of the Protocol, create a national mechanism to prevent torture;

(e) Enact an appropriate legal framework for the protection of human rights defenders, journalists and other media workers and the strengthening/and or creation of protection mechanisms;

(f) Ensure that the rights to freedom of expression and peaceful assembly be respected so as to create a safe and conducive environment for the legitimate and peaceful activities of civil society;

(g) Devise a national action plan for the implementation of recommendations of the United Nations human rights mechanisms, including the universal periodic review and treaty bodies;

(h) Extend a standing invitation to all thematic special procedures mandate holders, and provide detailed responses to their communications.

59. In view of the above recommendations, the Human Rights Council should continue to be seized of the situation of human rights in the Democratic Republic of the Congo.



General Assembly

Distr.: General
15 August 2014

Original: English

Human Rights Council

Twenty-seventh session

Agenda items 2 and 10

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Technical assistance and capacity-building

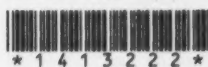
Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 24/29, in which the Council requested the Secretary-General to report to Council at its twenty-seventh session on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and the people of Cambodia in the promotion and protection of human rights.

GE.14-13222 (E)



* 1 4 1 3 2 2 2 *

Please recycle A recycling symbol consisting of three chasing arrows forming a triangle.



Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1-11	3
II. Widening the democratic space	12-21	5
III. Promoting the rule of law	22-32	7
IV. Protecting economic and social rights.....	33-45	9
V. Supporting prison reform.....	46-56	12
VI. Public information and human rights education.....	57-61	15
VII. Supporting engagement with the international human rights mechanisms	62-70	16

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 24/29. It describes the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia from 1 June 2013 to 31 May 2014. It covers the period from 1 July 2013 to 30 June 2014.

2. The OHCHR presence in Cambodia, originally established by the Commission on Human Rights resolution 1993/6, continued to provide assistance to the Government and the people of Cambodia in promoting and respecting human rights in five key areas: prison reform; fundamental freedoms; economic and social rights; rule of law, including through the promotion of the legacy of the Extraordinary Chambers in the Courts of Cambodia; and public information and human rights education. Its work on the issue of business and human rights was also expanded.

3. The past year was largely coloured by the elections to the National Assembly, held on 28 July 2013. According to the official results, the ruling Cambodian People's Party won 68 seats and the main opposition Cambodia National Rescue Party won 55. The Cambodia National Rescue Party contested the results, however, and boycotted its seats in the National Assembly, calling for reforms to the electoral body and negotiations on leadership positions within the Assembly. The Cambodian People's Party publicly pledged to undertake wide-ranging reforms, including in the areas of justice, public administration and election management. With the political stalemate unresolved, the Assembly officially opened on 23 September, with only the Cambodian People's Party's Members of Parliament in attendance. The Assembly proceeded to approve the newly formed Government and the State budget.

4. The human rights situation during the reporting period was profoundly affected by the political situation. Negotiations between the two parties, which at times appeared close to a resolution, took place on and off but remained unresolved at the time of drafting. Over this period, Cambodia witnessed a wave of demonstrations that was unprecedented in number and scale. Throughout the campaigning period preceding the July elections, motorized campaign rallies organized by the two main parties were daily occurrences in the capital. On 19 July, the opposition leader Sam Rainsy had returned to Cambodia from self-imposed exile and was greeted by a crowd in the tens of thousands. Demonstrations continued nationwide, and particularly in Phnom Penh, in the weeks and months following the elections. Demonstrations gathered momentum towards the end of 2013. Those by the political opposition coincided with calls within the labour movement for an increase in the minimum wage in the garment industry, the leading export sector. The year ended with the political demonstrations converging with nationwide strikes by tens of thousands of garment sector workers calling for a substantial increase in the minimum wage.

5. The reaction of the authorities to demonstrations throughout 2013 was for the most part tolerant, with the rights to freedom of expression and peaceful assembly generally being respected and demonstrations permitted to proceed. There were tragic exceptions to this general rule, however, involving the use of live ammunition and the deaths or serious injury of demonstrators and bystanders on 15 September and on 12 November 2013.

6. The generally tolerant approach of the Government toward the demonstrations changed sharply at the start of 2014. On 2 January 2014, security forces intervened violently at an overall peaceful demonstration outside a factory on the outskirts of Phnom Penh, beating people and eventually arresting 10 men. The following day, another 13 individuals were arrested and the authorities used live ammunition — killing at least four individuals and injuring scores more — to suppress a demonstration that had turned

violent in an industrial area. A fifth person eventually succumbed to injuries incurred that day and a sixth individual, a 16-year-old boy, has not been seen since 3 January, when he was allegedly shot in the chest. On 4 January, security forces in Phnom Penh cleared demonstrators from Freedom Park, a designated area for demonstrations, while the Ministry of Interior issued a press statement explaining that demonstrations were “provisionally suspended until the public security and order return to normal”. While the political negotiations between the two parties continued, the pace and scale of demonstrations was much reduced, with some allowed to proceed while others were suppressed. It is therefore unclear whether the ban on demonstrations remains in place. Scores of criminal complaints were filed against the leaders of the unions that had backed the December-January strikes. Later in 2014, there was an upturn of judicial intimidation of union activists in relation to other labour actions.

7. Meanwhile, the Government has proceeded to draw up key laws and submit them to the Parliament without public disclosure of their contents, and thus without public consultation or debate. They include three fundamental laws on the judiciary (on the organization of courts, on the Supreme Council of Magistracy and on the status of judges and prosecutors), the contents of which as adopted by Parliament would entrench in law the lack of independence of the judiciary. Other draft laws critical for human rights, including draft laws on associations and non-governmental organizations (NGOs) and on cybercrime, are reportedly being developed with the same lack of transparency. From the information that it has been possible to obtain, several draft laws would appear to contain restrictive provisions that could inhibit the enjoyment of human rights. At the same time, a draft law on environmental impact assessments is undergoing consultation and public pledges have been made that a future draft on freedom of information will also be prepared through wide participation, including of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and OHCHR.

8. The past year witnessed a significant, although seemingly temporary, widening of the democratic space. After the July 2013 elections, and prior to the events of January 2014, freedom of expression was enjoyed on a larger scale than ever seen in recent history. For the first time in decades, a viable opposition party gained a significant number of seats in the National Assembly. Promises of reform may lead to a system of some checks and balances in the governance structure of the nation. Decentralization is moving ahead and anecdotal signs indicate that local governance structures may be becoming more responsive than they have been in the past. Positive measures taken in 2014 by the Phnom Penh municipality to engage groups of families who had been evicted from their lands and homes — many of whom are still subject to violence and the withholding of basic social services — hold promise for a resolution to these long-standing disputes.

9. It remains to be seen, however, whether meaningful reform will take place. At present, the three pillars of Government (legislative, executive and judiciary) remain under the control of the ruling party. Physical attacks by security forces, including by private security groups, against journalists spiked in 2014. The fatalities and injuries caused by State forces during demonstrations over the past year have not been investigated or resolved.

10. In the meantime, serious ongoing human rights concerns continued to demand attention, particularly with respect to land and housing rights. An unabated number of alleged victims of land-grabbing or forced evictions, whether indigenous groups, whole villages, communities or individual families, have sought interventions and requested monitoring and protection from OHCHR.

11. In that delicate context, OHCHR continued its most significant technical cooperation activities, as well as activities aimed at capacity-building and public awareness-raising. It enjoyed a generally good level of cooperation with the national State institutions during much of the year, particularly at the working level, and with the Phnom Penh municipality.

In February 2014, its Memorandum of Understanding with the Government was renewed for another two years until 31 December 2015. In 2014, several long-running programmes yielded significant achievements in the professionalization of key groups of public servants, particularly in securing a separate legal status and setting out specific training requirements for prison staff and in requiring for the first time all judges to set out their legal reasoning when taking decisions on pretrial detention. In addition, agreement has been reached with the Bar Association that all new trainee lawyers joining the association will henceforth be obliged to receive training on fair trial rights, thereby institutionalizing the Fair Trial Rights Academy that has been delivered by OHCHR.

II. Widening the democratic space

12. The past year has been one in which one of the key components of a vibrant democracy — an engaged and informed electorate free to express its views — has clearly emerged. OHCHR continued its support for strengthening the capacity of individuals and organizations to exercise their rights to freedom of expression, opinion and association, and to peaceful assembly.

13. First, throughout the reporting period, OHCHR monitored demonstrations in Phnom Penh and the provinces, including rallies by the political parties in advance of the elections, demonstrations by the opposition following the elections, demonstrations by unions and factory workers, as well as other protests. The frequency of demonstrations increased throughout 2013, culminating in daily rallies by the political opposition in December and a nationwide strike organized by unions, joined by garment sector workers.

14. In 2014, although much reduced in scale and frequency, demonstrations in Phnom Penh continued to be organized by the political opposition, trade unions and other civil society and community activists. For the most part, the authorities sought to prevent them from proceeding, including through the use of roadblocks and barricades around the city's Freedom Park, and to disperse, often violently, groups as they congregated. Throughout 2014, the authorities instituted a practice of arresting small numbers of demonstrators or organizers and detaining them for short periods, releasing them once they put their thumbprint on documents stating they would not henceforth take part in or organize further demonstrations. OHCHR raised the matter repeatedly with the Government.

15. Second, OHCHR contributed to widening the democratic space by seeking to mediate, wherever necessary and possible, between the authorities and organizers to ensure that demonstrations could take place peacefully and in conformity with domestic and international human rights law. For example, on 30 December 2013, OHCHR mediated between union representatives and Phnom Penh police in an effort to facilitate a demonstration by 5,000 striking garment workers who had marched from the Ministry of Labour and Vocational Training to the Council of Ministers to deliver a demand that the Government increase the minimum wage.

16. When violence occurred at protests or a threat of violence was evident, OHCHR followed its standard approach of trying to calm the situation through discussion with the authorities and demonstration organizers and often succeeded. Despite extended periods during which the authorities showed a positive attitude towards the rights to freedom of expression and peaceful assembly, a number of demonstrations ended in violence, including on three occasions when lethal force was used by the authorities. In such instances, OHCHR monitors sought to reinforce with the authorities the requirements of necessity, legality and proportionality in any use of force. Where demonstrations resulted in violence, OHCHR also assisted authorities and non-governmental actors in seeking to ensure that those injured received medical treatment. On several occasions when demonstrators were

arbitrarily detained by the authorities, OHCHR sought the release of detainees or access to legal representation and medical care, as needed.

17. Third, OHCHR also continued to promote the right to freedom of peaceful assembly through a range of capacity-building activities. The main activity has been the training of civil society on the Law on Peaceful Demonstration, based on the "Implementation Guide to the Law on Peaceful Demonstration",¹ which the Ministry of Interior and OHCHR had jointly drafted in 2010. A variety of training sessions on the law were delivered to NGO staff, trade union activists, environmental activists, lesbian, gay, bisexual and transgender rights activists, and journalists working on issues relating to freedom of expression and assembly. In addition, OHCHR organized a one-day training session entitled "Methodology for Monitoring the Right to Peaceful Assembly" in September 2013.

18. OHCHR published an information leaflet which sets out the basic procedural requirements for demonstration organizers and the obligations of the provincial/municipal authorities under the Law on Peaceful Demonstration. The leaflet is a single-page, folding document, designed to fit into a pocket, which demonstration organizers, monitors, and members of the authorities could carry on them. In March 2014, OHCHR began disseminating the leaflet, in English and Khmer, to civil society organizations nationwide. A total of 4,000 copies were circulated by the end of the reporting period.

19. Fourth, OHCHR fulfilled its protection mandate to human rights defenders by monitoring individual cases as they arose and advocating with the relevant authorities to respect the rights of those concerned. In this connection, OHCHR continued to monitor the use of the criminal justice system to penalize the exercise of fundamental freedoms and to punish human rights defenders for legitimate work undertaken for the promotion and protection of human rights. OHCHR observed the increased resort to criminal charges against human rights defenders — most notably union activists on the basis of incitement to violence — towards the end of the reporting period. The particularly high-profile cases against 25 individuals prosecuted in relation to protests in November and January were closely followed by OHCHR, along with many national and international observers, which eventually concluded with convictions with suspended sentences.

20. Fifth, OHCHR continued to monitor legislative developments that could impact on human rights. OHCHR consistently called on the relevant ministries and the Parliament to publicly release draft laws and to integrate consultations with stakeholders into the law-making process. A draft cybercrimes law with the potential to restrict freedom of expression on the Internet was reportedly revived for enactment; there is no official information as to the status of this draft law. Similar levels of uncertainty prevail as to the existence of a fifth version of the draft law on associations and NGOs. In May 2014, the Office observed a tripartite consultation hosted by the Minister of Labour on the draft trade union law with support from the International Labour Organization (ILO). While the most recent version of the draft law was shared at that consultation, the suggestions of independent external expertise, including from ILO, were reflected therein.

21. Finally, OHCHR continued to promote public awareness of fundamental freedoms. In 2013, it launched a radio show series designed to raise awareness and understanding of the rights to freedom of expression, association and assembly, in partnership with the Cambodian Center for Independent Media.

¹ Available from http://cambodia.ohchr.org/EN/PagesFiles/The_right_peaceful_assembly.htm.

III. Promoting the rule of law

22. The OHCHR Rule of Law Programme in the country is aimed at supporting the legal and judicial reform process. The Programme works with a range of actors involved in the criminal justice system, mainly the Ministry of Justice, judges and prosecutors at all levels of the court system, lawyers and judicial police officers. The level of cooperation with the Ministry of Justice, and consequently with judges and prosecutors, has remained generally good, with many activities co-organized with the Ministry.

23. During the reporting period, OHCHR assumed the role of facilitator of the development partners of the Technical Working Group on legal and judicial reform. In this role, OHCHR works directly with the Ministry of Justice, which has responsibility within the Government for this sector. Technical working groups are the mechanisms for coordinating government-development partners in Cambodia and are organized along sectoral lines. In its role as development partners' coordinator, OHCHR organized regular meetings of the group and coordinated inputs to the Government. In particular, OHCHR coordinated and submitted comments on the draft National Strategic Development Plan, 2014–2018. Some of the comments were integrated in subsequent versions of the plan. OHCHR took the lead in proposing new joint monitoring indicators to the Government, which remain to be jointly agreed. Following an 18-month period during which no meeting of the Technical Working Group on legal and judicial reform was convened between the Government and its development partners, the Ministry of Justice agreed to meet with development partners in March 2014, in a meeting co-chaired by OHCHR.

24. After the July 2013 elections, it was announced the three fundamental laws on the judiciary would be adopted within the first six months of the new legislature. The draft laws had been pending for many years. They were finalized by the Ministry of Justice, sent to the Council of Ministers for approval and then to the National Assembly for adoption, without being shared publicly. Unable to review the latest official version of the draft law on the organization of courts, OHCHR submitted some general comments to the Ministry of Justice in February 2014, some of which were integrated in a subsequent version. When the texts of the three draft laws were finally shared by the National Assembly with OHCHR one day before they were approved, OHCHR submitted further comments on them to the Assembly. Despite repeated requests from development partners, including OHCHR, and civil society, the drafts were not publicly released and consultations with relevant stakeholders were not organized.

25. OHCHR continued to advocate for the implementation of the Code of Criminal Procedure in accordance with international and national human rights standards. In particular, OHCHR worked closely with the Ministry of Justice to reform the pretrial detention process in order to introduce a requirement for legal reasoning in all judicial decisions ordering pretrial detention. The Minister of Justice approved a new court form that had been developed by senior judges, a process facilitated by OHCHR drawing on best practices from the Extraordinary Chambers in the Courts of Cambodia. The new form was sent to all courts in January 2014. The Ministry of Justice and the Bar Association, with support from OHCHR, disseminated it during a national conference on pretrial detention in March 2014. Judges, prosecutors and lawyers from all provinces attended the conference, which was opened by the Minister of Justice. In order to advocate for and explain the form to local judges, prosecutors and lawyers, OHCHR and the Ministry of Justice organized a series of judicial round tables in the provinces as in previous years. The judicial round tables allowed practitioners from the Extraordinary Chambers to share their experiences with colleagues from 13 (of 24) provinces. The meetings also allowed the Ministry of Justice to collect suggestions from judicial and legal practitioners on possible amendments to the Code of Criminal Procedure.

26. OHCHR continued to support regular meetings between the police, members of the judiciary and prison officials in the provinces, especially in the north-west of the country through its Battambang regional office, to improve cooperation within the criminal justice system and discuss issues related to the implementation of the Code of Criminal Procedure. During the reporting period, OHCHR supported six such provincial meetings. OHCHR conducted training in the provinces, in cooperation with chief prosecutors, for police and gendarmerie officers on the prevention, investigation and prosecution of acts of torture and ill-treatment. OHCHR followed up on the training sessions conducted during previous reporting periods through visits to police stations at the district level to further disseminate the relevant international human rights standards. In addition, OHCHR organized joint visits with prosecutors to police stations, allowing prosecutors to interact with local police officers, check police registry books and inspect police cells. Most local prosecutors had never previously visited those police stations. Finally, OHCHR translated into Khmer and published the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

27. Cooperation between OHCHR and the Bar Association remained excellent. Both jointly advocated for improved access to justice through the establishment of a legal aid system. Currently, legal aid is mainly funded by donors through grants to legal aid NGOs. The Legal Aid Department of the Bar Association receives very little government funding. The Bar Association and the Ministry of Justice, with support from OHCHR and the United Nations Children's Fund (UNICEF), organized a national legal aid conference in November 2013. The conference was attended by judges, prosecutors and legal aid lawyers from across the country. At the conference, the Government announced that the national legal aid budget would be increased in 2014 and pledged further increases in future years. However, the transfer of the management of the legal aid budget from the Bar Association to the Ministry of Justice, also announced at the conference, has led to a decrease in the number of persons benefiting from legal aid. OHCHR translated into Khmer and published the recently adopted United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (General Assembly resolution 67/187).

28. OHCHR and the Bar Association began working on a new law on the bar. The current Law on the Bar dates back to 1995 and the Bar Association has expressed strong interest in it being updated. A working group was formed in July 2013 and met on several occasions to discuss possible amendments. OHCHR provided support for the meetings and technical assistance during the discussions.

29. OHCHR organized a third, expanded edition of the Fair Trial Rights Academy. This time, the eight-week course was delivered to a group of 59 trainee lawyers at the Lawyer Training Center. During the course, the trainee lawyers learned about fair trial rights and how they are applied at the Extraordinary Chambers in the Courts of Cambodia, and toured the Chambers. Following positive feedback from the participants, the Bar Association asked OHCHR and the Swedish Raoul Wallenberg Institute to develop a 30-hour human rights module which will henceforth form a standard part of the curriculum for all trainee lawyers in Cambodia.

30. During the reporting period, OHCHR followed up cases involving human rights violations, 14 of which were followed particularly closely. In all cases, OHCHR liaised with judges, prosecutors and lawyers on the progress. In some cases, OHCHR assisted victims in finding a lawyer to defend them. In seven cases, OHCHR worked directly with lawyers to assist them in defending cases through improved use of human rights-based arguments before the courts. Through this work, several human rights issues have been brought to the attention of judges with some degree of success. In one case, the Supreme Court made several references to the International Covenant on Civil and Political Rights in

its judgment. During the reporting period, nine cases reached the trial stage; OHCHR closely followed the hearings.

31. OHCHR continued to work closely with the Court of Appeal to reduce the backlog of long-pending cases. OHCHR visited a number of prisons nationwide to identify the remaining appeal cases which had been pending for more than five years, having previously seen the backlog of cases pending for more than ten years cleared. OHCHR will again collaborate with a legal aid organization (International Bridges to Justice) to provide legal assistance. After several years of concerted joint efforts between OHCHR, the Court of Appeal, the General Department of Prisons and legal aid organizations, much of the backlog of the longest-pending appeal cases has now been cleared.

32. OHCHR work on promoting the legacy of the Extraordinary Chambers in the Courts of Cambodia has enjoyed some success during the reporting period. As previously mentioned, senior judges and the Ministry of Justice were persuaded to examine best practices from the Extraordinary Chambers when reforming the pretrial detention process. In addition, the publication by OHCHR in March 2014, of the *Annotated Cambodian Code of Criminal Procedure – Annotations to ECCC and select international jurisprudence*,² in English and Khmer made available a valuable new resource for Cambodian legal practitioners. It was the result of a three-year project and was printed with funding from United States Agency for International Development and the British Embassy in Cambodia. More than 1,500 copies have been distributed to judges, prosecutors, lawyers, academics and law students and it continues to be in high demand. Finally, OHCHR organized, in collaboration with the Bar Association, a series of legal dialogues between lawyers working at the Extraordinary Chambers (defence and civil party lawyers) and lawyers working in the domestic system.

IV. Protecting economic and social rights

33. The OHCHR Economic and Social Rights Programme, previously the Land and Housing Rights Programme, was renamed to reflect its expanded focus, although it continues to focus primarily on land and housing rights issues. Through it, OHCHR works to promote and protect the right to adequate housing and an adequate standard of living, prevent forced eviction and promote security of tenure with the understanding that adequate housing is a precondition for the enjoyment of many other economic and social rights, including the rights to work, health and education.

34. While there has been little change in the resolution of disputes or security of tenure in most informal urban settlements during the reporting period, the Government continues to implement its directive No. 001 on private land titling, including in rural areas on and around economic land concessions and logging concessions, and areas administered by the Ministry of Agriculture, Forestry and Fisheries and the Ministry of the Environment. Directive No. 001 was issued by the Prime Minister on 7 May 2012 to temporarily halt the granting of new economic land concessions. The directive also called for a review of existing concessions and the implementation of a “leopard-skin” policy, by which the boundaries of existing communities and private titles contained within conceded land would be demarcated and excluded from concessions, and the land titles thereon would be granted.

35. According to government figures, as of April 2014, more than 500,000 land titles had been delivered under the campaign. The Ministry of Land Management, Urban

² Available from <http://cambodia.ohchr.org>.

Planning and Construction declared that more than 1 million hectares of land, 340,000 hectares of which was returned by 128 different economic land concessionaires, had been reclassified in order to provide ownership to citizens. One of the stated aims of the campaign was to reduce the number of rural land disputes. However, a number of irregularities regarding the process were reported to OHCHR throughout the reporting period, such as the lack of clarity with regard to selection criteria for the surveying and titling of lands. Not all lands have been surveyed and even some families who had their land surveyed have yet to receive titles. While a welcome initiative, directive No. 001 has not holistically addressed disputed lands nationwide and a number of existing disputes remained unresolved, while some previously dormant disputes have resurfaced.

36. During the reporting period, OHCHR monitored 71 ongoing and unresolved land disputes between affected communities, authorities and businesses in both rural and urban areas combined. Of those disputes, 31 related to economic and other land concessions (including 12 on land long occupied by indigenous peoples and 14 cases affected by the implementation of directive No. 001), while 40 disputes related to other land transactions (including two on land long occupied by indigenous peoples and four cases affected by the implementation of directive No. 001). OHCHR activities in this area included the facilitation of dialogue, court monitoring and provision of legal and procedural advice.

37. While the moratorium on the granting of economic land concessions remained in place, the comprehensive review of existing concessions ordered under directive No. 001 had not been conducted at the time of drafting. Access to information and a lack of transparency and accountability in the land-titling process and the management of land concessions remain serious concerns. Cases of focus for OHCHR included concessions granted within protected areas, such as national parks, wildlife sanctuaries, protected forests and areas inhabited by indigenous peoples. In the absence of complete official data made available by the Ministry of Agriculture, Forestry and Fisheries and other government entities, OHCHR continued to provide support for a non-governmental open-data source which makes available in one location information on land concessions by province and by company, and includes briefings on thematic issues.

38. During the reporting period, confrontations (at times violent) were witnessed between individuals, communities, housing rights activists and authorities, police and the military. In 2014, OHCHR recorded a sharp rise in the number of violent forced evictions of individuals, families and communities from disputed rural land. Incidents included the burning and bulldozing of houses and shelters, often without notice or court orders mandating the action, and arbitrary detention of those who defended their property. This followed a period of relative calm during the period preceding and immediately following the July 2013 national elections.

39. OHCHR monitored and intervened in demonstrations and protests related to land and housing, in order to prevent violence, seek a negotiated outcome and secure the release of persons who had been arbitrarily detained. OHCHR witnessed a number of incidents of excessive use of force by the authorities, but also, in the absence of effective dispute resolution mechanisms, the use of tactics by protestors such as the blocking of main roads, the destruction of company property, the seizure of illicit timber and confrontations with authorities and business representatives.

40. OHCHR supported the consultation process for a bill on environmental impact assessments led by the Ministry of the Environment, as well as provided written advice on the harmonization of the current draft of the white paper on land policy with international standards on transparency, public participation and access to information, gender, the responsibility of business enterprises, free, prior and informed consent, resettlement, and grievance mechanisms and dispute resolution processes.

41. The Government reported in April 2014 that almost 2.3 million land titles had been delivered under the country's Land Administration Sub-Sector Program throughout 24 provinces. OHCHR case work is specifically focused on the promotion of tenure security and the prevention of eviction and resettlement, including the promotion of equitable consultation processes, the securing of adequate compensation and, when necessary, the improvement of planning for relocation. Living standards at relocation sites, including access to employment and basic facilities and services essential for health, security and nutrition, were assessed. Conditions at relocation sites monitored by OHCHR generally remained poor. OHCHR advocated for the right of access to safe water and sanitation and, in collaboration with local civil society organizations, provided water filters to 190 families in seven communities who were identified as urban poor communities lacking appropriate sources of clean drinking water.

42. On the promotion of indigenous peoples' land rights, OHCHR worked closely with the Ministry of Rural Development and the Ministry of Interior. In collaboration with ILO and other development partners, it monitored and supported efforts nationwide by indigenous peoples to organize and obtain recognition as legal entities, and to apply for collective land titles, as set out in domestic law. The process for applying for communal land titles is complex, expensive and slow and thus inaccessible for most indigenous communities. Significant gains have been made in granting recognition to indigenous communities as legal entities by the Ministry of Rural Development. Nevertheless, the exploitation of land inhabited by indigenous peoples, including through the granting of land concessions, has outpaced the establishment of secure tenure for most communities. The State regularly fails to consult with indigenous peoples or to obtain their free and informed consent prior to adopting administrative measures or projects which may affect the enjoyment of their land and other rights. The Land Law, which gives a legal basis to indigenous identity, also recognizes the State's right to issue land concessions; between the competing demands of protecting the legal identity of indigenous peoples³ and granting economic land concessions,⁴ priority has been given to land concessions.

43. Where necessary and possible, OHCHR provided legal assistance to communities in completing registration as legal entities with the Government, and to submit their applications for collective land titles. For instance, OHCHR provided financial and technical support to three communities of Suoy indigenous people in Aoral district (Kampong Speu province), one Por community in Samlot district (Battambang province) and seven Phnong villages in Bousra commune (Monduliri province). OHCHR co-organized, in April 2014, the National Workshop on Indigenous Communal Land Titles

³ The number of communal land titles issued to indigenous communities since 2001 amount to eight, according to the German Agency for International Cooperation (GIZ). GIZ has been providing capacity development to the Ministry of Land Management, Urban Planning and Construction and supporting the design and implementation of the Cambodian Land Administration, Management and Distribution Program.

For details, see: <http://giz-cambodia.com/wordpress/wp-content/uploads/FactSheet-Land-Rights-final-09.01.pdf>.

⁴ In contrast, the number of economic land concessions granted since 2001 number in the hundreds. The Ministry of Agriculture, Forestry and Fisheries has stated that 118 economic land concessions were issued, covering a total of 1,204,750 hectares, prior to the ban in May 2012 (see www.elc.maff.gov.kh/). NGOs such as Open Development Cambodia and LICADHO estimate that the true number is far higher. Open Development Cambodia estimate that 343 economic land concessions have been issued (see www.opendevdevelopmentcambodia.net/company-profiles/economic-land-concessions/). LICADHO estimates that a total of 2.1 million hectares of land has been transferred mostly from subsistence farmers into the hands of industrial agriculture firms (see www.licadho-cambodia.org/concession_timelapse/).

with the Ministry of Rural Development and a working group of NGOs to address key challenges in the process. OHCHR-Cambodia assisted in facilitating the representation of indigenous communities from seven different provinces during the workshop. OHCHR contributed to advocacy more generally for indigenous peoples' land rights and cultural and linguistic rights through the media, including through press statements, publications and video.

44. In view of the growing influence of businesses on the enjoyment of human rights, OHCHR expanded its work in this area through awareness-raising and capacity-building initiatives. OHCHR targeted government ministries and officials, civil society organizations, community representatives and business actors, including through chambers of commerce, to increase their understanding of the Guiding Principles on Business and Human Rights and their application in Cambodia. OHCHR gave presentations at nine seminars and consultations for civil society, reaching more than 350 representatives of NGOs and indigenous communities nationwide, and supported the building of greater capacity for civil society to access non-judicial mechanisms for addressing business-related human rights impact at the operational, national and international levels. In addition, approximately 5,000 Khmer and English copies of the Guiding Principles and 2,000 copies of the OHCHR *Picture Book on Business and Human Rights: Protect, Respect and Remedy Framework* (2013) were distributed.

45. Furthermore, OHCHR reached out to businesses directly to engage them in discussions on the implications of their operations. In December 2013, it hosted a visit by Puvan Selvanathan, a member of the Working Group on the issue of human rights and transnational corporations and other business enterprises, during which OHCHR co-organized a training session on business and human rights with the Cambodia Human Rights Committee, in which nine Government ministries and the Council for the Development of Cambodia participated. As the strikes for a higher minimum wage gained momentum in the second half of 2013, OHCHR engaged with various chambers of commerce, buyers for the leading international brands contracting work in Cambodia and the Garment Manufacturers Association in Cambodia, as well as the concerned ministries and ILO. OHCHR also continued to monitor the major labour strikes, particularly those where there was a risk of violence. At the time of drafting, the situation remains to be resolved, although progress is visible in the establishment of a proper wage determination mechanism that might peacefully settle the level of the minimum wage in the future by ensuring regular updates in a manner agreed to by all concerned parties.

V. Supporting prison reform

46. The OHCHR Prison Reform Support Programme in the country is implemented in partnership with the General Department of Prisons of the Ministry of Interior. Specifically, OHCHR aims to bring the legal framework relating to prisons in line with constitutional guarantees and international human rights norms; assist the General Department of Prisons in developing a professional training programme for prison staff integrating human rights throughout the curriculum; improve prison conditions and the treatment of prisoners; and strengthen the protection of prisoners against torture and ill-treatment through regular monitoring.

47. OHCHR support since 2010 has yielded results with the promulgation of the new Royal Decree on the Separate Status of Prison Staff in August 2013. The new Decree replaced the previous Royal Decree adopted in 2000, which separated prisons from police but only created a cadre of junior prison guards, whereas higher ranking officers were still part of the police. Now, all staff are recognized as prison staff with a distinct mission, in accordance with international standards. The Decree creates a career path, reinforced with

professional training, and improves the status of the profession in terms of educational requirements, remuneration and equivalences with the wider civil service. However, the final text also allows that, in the case of a lack of funding for professional training, new recruits can be confirmed as permanent staff after one year of service, even without initial formal training: a possibility that does not exist in other professions with separate status.

48. OHCHR continued to advocate for the review of the legal framework governing sentence reduction and pardon and provided written advice to the Ministry of Interior in July 2013 on strengthening its compliance with human rights law. The latest draft royal decree on sentence reduction and pardon includes provisions for the application of sentence reduction and pardon on medical and humanitarian grounds, as guaranteed under the 2011 Law on Prisons, the International Covenant on Civil and Political Rights and other international standards. OHCHR continued to advocate with the Ministry of Interior to include in the final drafting of the decree the relevant principles of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), which provide for special attention to be given to pregnant women and women with children. OHCHR reached an agreement with the Ministry of Interior to help organize a joint workshop with the Ministry of Justice to review the final draft.

49. OHCHR continued to collaborate with trainers from the General Department of Prisons and the Police Academy of Cambodia to improve the quality of training for all prison staff. In September and October 2013, OHCHR organized two study visits for trainers of prison staff to two correctional centres and three provincial prisons. Through those visits, the trainers obtained feedback from relevant prison managers and former prison staff trainees on how to improve future training programmes. The visits helped trainers to garner practical examples and provide guidance to trainees throughout the course. OHCHR also supported the organization of two meetings of the trainers from the General Department of Prisons and the Police Academy of Cambodia in order to discuss challenges and strategies to improve their training curriculum. As a result, the trainers agreed to amend some of the training content, sessions and methodologies when they prepared the 2014 training plan. The Khmer version of an international handbook on the human rights-based approach to prison management produced by OHCHR was shared with the training team and widely distributed to prison authorities at national and provincial levels, other relevant stakeholders and civil society partners.

50. OHCHR provided advice on the draft five-year strategic plan of the General Department of Prisons (2014–2018) in July 2013, based on the relevant international human rights norms and its own assessment of the progress achieved and challenges remaining in prisons. The Office further supported the first inclusive national consultative workshop of the General Department of Prisons on the draft strategic plan in December 2013, which convened representatives from relevant government institutions and civil society organizations to review and refine the final draft. In 2014, OHCHR helped the General Department of Prisons print 500 copies of the final strategic plan in Khmer for dissemination nationwide. The plan guides the prison authorities and civil society organizations in developing an annual action plan for achieving the goals of prison reform policy.

51. OHCHR continued its independent monitoring of prisons, which helps inform its programme of support and advocacy for the protection and promotion of prisoners' rights in Cambodia. Authorization for unrestricted access to prisons by OHCHR was renewed by the General Department of Prisons for 2014. The Office continued to combine comprehensive prison visits and targeted visits to specific individuals or groups of prisoners of concern. In November 2013, OHCHR carried out a first official joint monitoring visit (to Battambang prison) with officials from the Cambodian mechanisms established under the Optional

Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Following the ratification of the Optional Protocol in 2007, the Government established in 2009 and 2010 an interministerial committee and a secretariat thereto, respectively, and designated them as “the national preventive mechanism”, but there is as yet no law establishing a mechanism compliant with the requirements of the Optional Protocol. To enhance the knowledge about detention monitoring of the members of the governmental national preventive mechanism and in addition to the first joint visit to Battambang prison, OHCHR made available in Khmer two briefing notes of the Association for the Prevention of Torture entitled “Mitigating of the risks of sanctions related to detention monitoring” and “The selection of persons to interview in the context of preventive detention monitoring”.

52. In December 2013, Cambodia hosted a follow-up visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. OHCHR, the Subcommittee and the governmental national preventive mechanism jointly conducted a national workshop on the establishment of an independent national preventive mechanism in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and the requirements of the Optional Protocol. OHCHR commissioned for the workshop a study on comparative legislation by the Association for the Prevention of Torture, which enabled a discussion on successful experiences in establishing an independent mechanism in other countries. However, no progress has been seen on drawing up a law to establish an independent mechanism at the time of drafting of the present report. The Chairperson of the governmental mechanism called for a review of the effectiveness of the existing mechanism before embarking on drafting a law.

53. OHCHR continued to promote prisoners’ right to the highest attainable standard of health. In addition to the promotion of sentence reduction and pardon for medical reasons, that also included continued advocacy and support for secured hospital rooms for sick prisoners, to obviate the need to chain up prisoners in need of medical treatment. Building on successful examples from the previous reporting period, OHCHR worked extensively with provincial health departments, medical NGOs and national and provincial prison authorities to secure rooms at the referral hospitals of four more provinces. Of the 26 provinces in Cambodia, 15 have now secured rooms or are in the process of securing rooms for sick prisoners at referral hospitals. While OHCHR initially took the lead on this matter, NGOs working on health in prison have now begun to replicate the initiative.

54. Previous OHCHR support for disaster preparedness in the prison system paid off in October 2013 when Banteay Meanchey prison’s wall collapsed during floods and the authorities proved ready to promptly and safely evacuate all prisoners to Battambang and Siem Reap prisons. OHCHR provided thousands of sandbags, 100 litres of fuel for pumping water from the prison compounds, renovation materials for the reparation of the damaged flood-defence shield and hygienic supplies to prisons in five affected provinces.

55. OHCHR continued to provide technical and material assistance to improve prison facilities, in line with monitoring recommendations and the still-to-be-adopted *Prakas* on Minimum Standards for Prison Construction (sub-legislation required under the 2011 Law on Prisons). The Office’s support contributed in particular to improving natural light and ventilation in Battambang and Takeo prisons and the use of space to mitigate prison overcrowding in women’s cells at Correctional Centre 2. For several years, OHCHR had repeatedly raised the issue of the substandard nature of the prisons of Oddar Meanchey and Pailin provinces. In 2014, the Government allocated funds to build new prisons in both provinces.

56. In consultation with the General Department of Prisons, OHCHR drafted educational posters on the rights of prisoners and on family visits. It continued to work

closely with prison registry officers to update the lists of prisoners held pending appeal, or otherwise not having had their final judgements passed down, for follow-up with the courts.

VI. Public information and human rights education

57. The Office continued its public communications and advocacy work nationwide to better promote human rights and address specific thematic issues and the needs of diverse audiences. Using a range of information tools, the Office reached out to various sectors of society, including academic institutions, the media, government officials and communities in remote provinces. In partnership with the Ministry of Information, OHCHR conducted a training session entitled "A human rights-based approach to journalism" in Siem Reap in August 2013 for media professionals from the north-western provinces.

58. During the reporting period, the dissemination of publications and other information materials by OHCHR increased in both English and Khmer. At the time of drafting, OHCHR Cambodia had printed over 30 titles in the two languages. In 2013, OHCHR published several new books including the *Annotated Criminal Procedure Code* in English and Khmer and *Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law* in Khmer.

59. Other relevant human rights materials produced in Khmer by the Office include legal texts, instruments, guidelines and factsheets. Additionally, OHCHR produced a number of promotional and informational materials, such as flyers, banners or posters to support the work of its substantive programmes. To date, the Office has distributed over 120,000 copies of publications and other information materials among government institutions, students, law professionals, journalists, NGO partners and the general public. The Office continued its popular practice of opening its doors to the general public one day a week, at which time any interested person could come to obtain human rights materials of interest.

60. The Office commemorated key international days such as Human Rights Day (in multiple activities organized by national and international partners), World Press Freedom Day (with UNESCO), the International Day Against Homophobia and Transphobia (with the Joint United Nations Programme on HIV/AIDS), International Women's Day (with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)), International Labour Day (with ILO), the United Nations International Day in Support of Victims of Torture, etc. OHCHR organized or joined commemoration events, distributed promotional and informational materials and issued articles to increase awareness. On Human Rights Day 2013, OHCHR contributed to numerous activities organized by local and national authorities, development partners and civil society organizations, and published an opinion piece.

61. One of the Office's key information dissemination tools is its website. OHCHR maintains a bilingual website, which continues to be the only United Nations web presence in Khmer. All statements and publications of the Office and relevant information from Headquarters are translated and posted online in a timely manner. Materials of the United Nations and the international human rights mechanisms on Cambodia continued to be updated regularly on the website, as were the activities and highlights from the work of the Office. During the reporting period, the Office embarked on a redesign of the website and its upgrading into a dynamic website to facilitate its updating, drawing on the latest web technology.

VII. Supporting engagement with the international human rights mechanisms

62. During the reporting period, OHCHR continued to advocate for the ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families. OHCHR and UN-Women organized a series of briefings for the interministerial working group responsible for examining the question of ratifying the Convention. The Government agreed in principle to ratify it and accepted three relevant recommendations during the country's universal periodic review in 2014.

63. On the occasion of World Day against the Death Penalty, OHCHR published an opinion piece welcoming Cambodia's long-standing moratorium of the death penalty and encouraging the Government to further set an example for the whole region by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. On the same day, OHCHR organized a briefing on the topic for government officials from the relevant ministries, jointly with the European Union.

64. The implementation by Cambodia of the Convention on the Elimination of All Forms of Discrimination against Women was examined by the Committee on the Elimination of Discrimination against Women in October 2013. OHCHR and UN-Women organized a mock session for the Government delegation ahead of the session. After the session, assistance was provided to help disseminate the concluding observations issued by the Committee. In December 2013, OHCHR and UN-Women published a joint opinion piece on the concluding observations. They also organized a workshop with relevant government officials and civil society in order to discuss strategies for the implementation of the concluding observations.

65. OHCHR and UN-Women continued to organize training sessions for NGOs and lawyers on how to submit communications under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Such training sessions were organized in August 2013 and May 2014. OHCHR also provided advice to individual lawyers who planned to submit communications.

66. Following the ratification of the Convention on the Rights of Persons with Disabilities, OHCHR organized in August 2013 a two-day training workshop for the Secretariat of the Disability Action Council on the Convention. Upon a request from that Council, OHCHR delivered another training session focused on reporting under that Convention in November 2013. In that regard, OHCHR translated into Khmer the Committee's reporting guidelines and its first two general comments.

67. The human rights situation in Cambodia was examined for the second time by the Human Rights Council under the universal periodic review process in January 2014. Ahead of the session in Geneva, OHCHR provided a briefing to the government delegation and briefings to diplomats and to civil society organizations on the process. Recommendations made as part of the universal periodic review process serve as a basis for many activities and points of advocacy for OHCHR and other development partners. For example, through the Technical Working Group on land and housing, the encouragement of the development partners resulted in several recommendations on land and housing rights, which have been reflected in the Government's National Strategic Development Plan 2014–2018.

68. In March 2014, OHCHR organized a one-day workshop with the Cambodian Human Rights Action Committee for civil society organizations on shadow reporting under the International Covenant on Civil and Political Rights. The government report under the Covenant is due to be examined by the Human Rights Committee in March 2015.

69. OHCHR provided support to the follow-up visit of the Subcommittee on Prevention of Torture to Cambodia in December 2013. The purpose of the visit was for the Subcommittee to follow up on its earlier recommendations, particularly with regard to the establishment of an independent national preventive mechanism compliant with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The members made unannounced visits to places of detention, including prisons, police stations and drug rehabilitation centres, met with the relevant authorities, and transmitted a confidential report to the Government.

70. OHCHR supported a visit by the Special Rapporteur on the situation of human rights in Cambodia in January and June 2014. The visits focused on assessing the progress made toward the establishment of an independent national human rights institution and following up on the recommendations from his previous four substantive reports, and will be reported on by the Special Rapporteur.



General Assembly

Distr.: General
27 August 2014

Original: English

Human Rights Council

Twenty-seventh session

Agenda items 2 and 10

Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General

Technical assistance and capacity-building

Situation of human rights in Yemen

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report is the High Commissioner's fifth periodic report on the human rights situation in Yemen submitted in the light of Human Rights Council resolutions 18/19, 19/29, 21/22 and 24/32.

* Late submission.

GE.14-14836



★ 1 4 1 4 8 3 6 ★

Please recycle A small recycling symbol consisting of three chasing arrows forming a triangle.



Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1	3
II. Background.....	2-19	3
A. International legal framework	2-4	3
B. Political developments.....	5-12	3
C. Security situation	13-18	5
D. Humanitarian situation	19	6
III. Situation of human rights and implementation of recommendations of OHCHR	20-69	7
A. Accountability and transitional justice	20-23	7
B. Extrajudicial killings	24-27	8
C. Death penalty.....	28-31	8
D. Enforced disappearances, fair trial and prison conditions	32-36	9
E. Rights to freedoms of expression, peaceful assembly and association.....	37-40	10
F. Judiciary	41-42	10
G. Children's rights	43-47	11
H. Women's rights	48-51	12
I. Refugees, migrants, asylum seekers and internally displaced persons	52-57	13
J. Marginalized groups.....	58-59	14
K. Cooperation with the Office of the United Nations High Commissioner for Human Rights	60-69	14
IV. Recommendations.....	70-72	15

I. Introduction

1. The present report is the fifth periodic report on the human rights situation in Yemen submitted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Human Rights Council resolutions 18/19, 21/22 and 24/32. It provides an updated assessment of the overall human rights situation in Yemen from 1 July 2013 to 30 June 2014, particularly against the backdrop of the recommendations contained in previous High Commissioner's reports and Council resolutions 18/19 and 21/22. The information contained in this report is based primarily on human rights monitoring carried out by the OHCHR office in Yemen (OHCHR-Yemen).

II. Background

A. International legal framework

2. Yemen is party to eight of the nine core international human rights treaties, as well as to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. On 11 June 2013, the Cabinet approved the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and endorsed the accession of Yemen to the Rome Statute of the International Criminal Court. However, the Parliament has yet to approve the ratification of those conventions as well as the Optional Protocol to the Convention against Torture and Other Cruel, Degrading Treatment or Punishment. In April 2014, the Cabinet approved the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

3. Yemen is party to all four Geneva Conventions of 12 August 1949, as well as to Additional Protocols I and II to the 1949 Geneva Conventions, and the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and it is also bound by the customary rules of international humanitarian law.

4. As a State party to the above-mentioned treaties, Yemen is legally bound to respect, protect and fulfil the human rights of those within its jurisdiction. During the reporting period, in reviewing the implementation by Yemen of its treaty obligations, the relevant human rights treaty bodies have noted that violations of civil, political, economic, social and cultural rights persist on a considerable scale.

B. Political developments

5. The Gulf Cooperation Council and the Agreement on the implementation mechanism for the transition period in accordance with the initiative of the Gulf Cooperation Council (Transition Agreement) signed on 23 November 2011, brought an end to the 2011 popular uprising and brokered a political settlement in Yemen. The Transition Agreement envisaged a two-phase transition. The first phase included early presidential elections, which took place on 21 February 2012 and saw the election of President Abd Rabu Mansur Hadi. The second phase commenced with the broad National Dialogue Conference, which concluded on 25 January 2014. The remaining key milestones expected to bring the transition period to its closure include the constitutional drafting process, a constitutional referendum, parliamentary and local council elections, as well as presidential elections.

6. Five-hundred and sixty-five participants took part in the National Dialogue Conference representing a wide spectrum of constituencies including women, youth, and civil society. Also participating were some factions of the Southern movement, and representatives of the Al Houthi movement. This dialogue process was supported and facilitated by the Special Adviser to the Secretary-General on Yemen. The Conference provided a forum for a wide range of political negotiations, social concerns, rule of law and human rights. It divided into nine working groups, each addressing a thematic area such as the Southern question, the Sa'ada question, rights and freedoms, good governance, transitional justice, and State-building among others. Constructive discussions aimed at building consensus around proposed solutions resulted in a series of agreed principles to form the basis of the new Constitution.

7. Transitional justice was one of the most contentious issues, specifically the question of immunity and political isolation of those obstructing change. Through negotiations and a framework to reach consensus, as well the intervention of the President, an agreement was reached to adopt a more forward-looking approach. That included setting forth strict criteria for holding office.

8. The National Dialogue Conference concluded on 25 January 2014 with the adoption of the outcomes of the nine working groups, totalling some 1,800 recommendations. At its conclusion, the Conference also adopted a so-called "guarantee document", which established that the political transition be linked to the completion of tasks originally outlined in the Transition Agreement, including the drafting and adoption of a new Constitution and general elections. The "guarantee document" also extended the deadlines originally envisioned in the Transition Agreement for at least one more year. Furthermore, the mandate of President Hadi was extended until the election of a new President.

9. On the proposed federal restructuring of the State, the National Dialogue Conference recommended the establishment of a committee tasked with determining the number and geographic delineation of regions. President Hadi established this committee on 3 February 2014, after the Conference had ended. At the end of February, the committee announced that an agreement had been reached on the new federal division of the State: two regions in the south and four in the north. Some key leaders from the south rejected the proposal, while the conflict escalated in the north and the Houthis continued to express their fear that the federalization as proposed would only divide the country between rich and poor regions.

10. On 8 March 2014, Presidential Decrees Nos. 26/2014 and 27/2014 established the Constitutional Drafting Commission and named its 17 members, including four women. According to the Decrees, the drafting of the Constitution would be followed by public consultations and a referendum within one year.

11. On 24 April 2014, Presidential Decrees Nos. 30/2014 and 31/2014 established the National Body for Monitoring the Implementation of the NDC Outcomes, defining its mandate and procedures, and named its 82 members. All constituencies that participated in the National Dialogue Conference are represented in the National Body.¹ The National Body is tasked with overseeing the implementation of the Conference outcomes, as well as ensuring that the draft Constitution is in conformity with those outcomes. The National Body has yet to convene, as a new group of leading Hiraq representatives, who had not participated in the Conference, are expected to join. However, at the time of writing the present report, it had not yet met.

¹ The National Body includes, inter alia, 23 women, youth, and representatives of political parties from the Southern movement and the north.

12. On 26 February 2014, the Security Council adopted resolution 2140 (2014) reaffirming the need for full and timely implementation of the political transition following the National Dialogue Conference. The resolution encourages all constituencies to continue their engagement in the political transition to implement the recommendations of the Conference. In addition, it calls upon the Hirak Southern movement, the Houthi movement and others to partake constructively in the process and to reject the use of violence to achieve political aims. The resolution also introduced targeted sanctions measures against individuals or entities engaging in or providing support for acts that threaten the peace, security or stability of Yemen. More specifically, the resolution established a panel of experts to investigate those who engaged in or provided support for acts that threaten the peace, security or stability of Yemen, including committing acts that violate applicable international human rights law or international humanitarian law or acts that constitute human rights abuses.

C. Security situation

13. Fighting in the north, between Houthi supporters and pro-Islah/Salafist armed groups, resulted in hundreds of civilians killed and thousands displaced. Confrontations started in October 2013, when the Houthis established armed checkpoints all around Dammaj in the northern Sa'ada Governorate and accused Salafist groups of recruiting foreign fighters to attack the Houthis. On 30 October 2013, Houthi armed groups shelled Dammaj, killing at least 20 persons and injuring 100. While the Houthis besieged Dammaj, pro-Islah/Salafist armed tribesmen tried to open different battlefronts in Amran and Al Jawf Governorates. Tribesmen in Arhab, north of Sana'a, blocked the roads leading to Sa'ada preventing the entrance of goods and services toward Houthi groups into Sa'ada. Clashes between Houthis and northern tribesmen in northern governorates continued until 12 January 2014 when the two conflicting sides signed a ceasefire agreement, brokered by a presidential delegation.

14. Despite the ceasefire agreement, there has been intermittent fighting between the Houthis and pro-Islah/Salafist armed groups. On 20 May 2014, the fighting renewed in Amran Governorate and reached the outskirts of the capital Sana'a. This time, the tribesmen fighting against the Houthis were reportedly backed by the "310th Military Brigade" and left dozens dead and injured. There has been a patchwork of ceasefire agreements over the past months throughout the north, many of which have not held for any length of time. The Office for the Coordination of Humanitarian Affairs (OCHA) reported that, between October 2013 and May 2014, an estimated 20,000 people had been displaced in the conflict in Amran Governorate. The conflict also caused destruction of private and public properties.

15. In April 2014, the Yemeni Armed Forces launched a military operation in the south aiming at reclaiming the Governorates of Abyan and Shabwa from the control of Al-Qaida in the Arabian Peninsula (AQAP). In early May 2014, President Hadi noted that the country was in an "open war" with AQAP, and that the military operation would expand to track all Al-Qaida members in Yemen. On 23 May, AQAP raided government buildings in Seiyun and Hadramout. The raid resulted in the killing of at least 27 individuals including 12 government troops and 11 attackers. The Government regained control of the cities on 24 May 2014.

16. The United States of America supported the military operation in the south of Yemen by using drone strikes that, according to local non-governmental organizations (NGOs), killed some 55 AQAP militants in Abyan and Shabwa Governorates. According to the same sources, the United States-supported drone operations intensified during the reporting period, with a total of 26 reported strikes, bringing the total death toll to at least

94 people killed in Abyan, Al-Jawf, Hadramout, Mareb, Sana'a and Shabwah Governorates. On 15 December 2013, the Parliament adopted a declaration calling for an end to the use of drones. Lack of transparency surrounding the use of armed drones for targeted killings in Yemen continued, creating an accountability vacuum, in which victims were unable to seek redress.

17. Attacks against oil and infrastructure escalated in the wake of the Government's military operation against AQAP. The main oil export pipeline was frequently attacked resulting in long electricity cuts in the capital. The attacks led to increases in diesel prices by as much as 200 per cent in unregulated markets. Extreme price volatility resulted in increased food prices by as much as 30 per cent, decreased access to already scarce water resources (pumped by generators), and a doubling of transportation costs. As a result, health care and other basic services were even more difficult to access.² On 11 June 2014, President Hadi replaced several ministers as a step to solve the power cuts and fuel crisis.³

18. During the reporting period, killings and kidnappings of government and high-ranking military officials, foreigners and other individuals were recorded. On 22 November 2013, Abdulkareem Jadban, Al Houthi Member of Parliament, was assassinated in Sana'a, while on 21 January 2014, one of the most prominent Houthi leaders, Ahmed Sharaf el-Din, was assassinated on his way to the National Dialogue Conference on the day of the final plenary session. On 19 January 2014, unknown assailants reportedly killed a diplomat from the Islamic Republic of Iran in Sana'a and on 6 October 2013, an international staff member of the United Nations Children's Fund (UNICEF) was kidnapped on the way to Sana'a airport and remains in captivity. Although unconfirmed, several sources reported that on 9 May 2014, the Minister of Defence and two senior security officers survived an ambush while travelling from Abyan to Shabwa Governorate.

D. Humanitarian situation

19. One of the poorest countries in the Arab world, Yemen has witnessed a decline in humanitarian conditions following the sociopolitical unrest that erupted in 2011. According to OCHA, during 2014 14.7 million people — about 60 per cent of the population — will require some form of humanitarian assistance. About 10.5 million people are food insecure, 4.5 million of them severely and an estimated 1,080,000 children under 5 years suffer from acute malnutrition. Over half the total population, 13.1 million people, have no access to improved water sources or to adequate sanitation facilities. About 8.6 million people have insufficient access to health services. This scale of humanitarian needs makes the country one of the largest global humanitarian emergencies.

² OCHA, Humanitarian Bulletin, issue 27, 13 May–5 June, available from <http://yemen.humanitarianresponse.info/>.

³ According to Decree No. 95/2014, the following ministers were changed: Minister for Communications and Information Technology; Minister of Electricity; Minister for Media; Minister for Oil and Minerals; Minister of Finance; and the Minister for Foreign Affairs.

III. Situation of human rights and implementation of recommendations of OHCHR

A. Accountability and transitional justice

20. Delays in addressing the issue of accountability continued to hamper progress in redress for serious human rights violations committed in 2011. During the reporting period, there were persistent demands to bring perpetrators from all sides to justice and to provide redress for victims and their families. Concerns over the credibility of judicial investigations into human rights violations, committed in the wake of the unrest in 2011, have been highlighted in the High Commissioner's previous reports.⁴ The High Commissioner recommended that the Government of Yemen launch transparent and independent investigations, compliant with international standards, into any allegations of serious human rights violations committed by government security forces during the events of 2011.⁵ In September 2012, a presidential decree was passed establishing a commission to investigate allegations of human rights violations that occurred in 2011. However, no commissioners had been appointed as of 1 July 2014.

21. Little progress was recorded with regard to the draft Law on Transitional Justice and National Reconciliation. As mentioned in the previous report, President Hadi submitted a draft transitional justice law to the Parliament in January 2013. In April 2014, the Ministry of Legal Affairs recalled the draft and revised it in order to align it with the outcomes of the National Dialogue Conference. In cooperation with the United Nations Development Programme (UNDP), in May 2014 OHCHR organized a national consultation involving approximately 300 participants to discuss the revised version of the law. Based on the consultation, concrete recommendations were provided to the Ministry, which, in May 2014, submitted the new draft to the Cabinet for further consideration.

22. The Commission to Consider and Address Land Issues and the Commission on Forcibly Dismissed Employees for southern Yemen were established in January 2013 as confidence-building measures to address the root causes of southern grievances. The Land Commission, consisting of five judges, started its work on 10 March 2013 and has established seven field offices across south Yemen. It has so far received more than 100,000 claims from individuals maintaining that their lands were illegally confiscated by the northern Government following the 1994 war. At the time of reporting none of the claims filed with the Land Commission had been resolved. The Dismissals Commission, which consists of five judges and four military officers, started its work on 13 March 2013 and until May 2014, had received approximately 93,000 applications.⁶

23. Both the Land and the Dismissals Commissions suffer chronic challenges relating to insufficient staffing, inadequate resources and weak administrative and management structures. The establishment of the two Commissions, and the amount of cases received, saw increased demand for reparations and compensation by the claimants. On the basis of the cases received, the two Commissions made recommendations to the President. These were adopted, but they have not been implemented.

⁴ A/HRC/21/37 and A/HRC/24/34.

⁵ A/HRC/21/37, para. 67 (a), and A/HRC/24/34, para. 55 (e).

⁶ According to information received from the Commission, 56,789 claims were received from former military personnel, 28,000 from former civil employees and 18,000 from the security sector.

B. Extrajudicial killings

24. In December 2013, in south Yemen, the thirty-third brigade of the Yemeni Armed Forces mounted a military operation against different targets in Al Dhale'a Governorate. A major incident occurred on 27 December 2013, when the brigade carried out a strike on the funeral procession of an alleged member of the southern separatist movement Al Hirak in the city of Sanah. The attack resulted in 21 civilians killed, including four children, and approximately 30 injured.

25. On 28 December 2013, President Hadi set up an investigation commission, composed of security and military officials, to investigate the events in Al Dhale'a and to report to the Supreme Security Council. On 29 December 2013, the commission was deployed to the incident's location. At the time of reporting, the commission had not made any of its findings public.

26. On 16 January 2014, indiscriminate attacks and shelling by government forces against civilian targets resumed in many parts of Al Dhale'a, including Al Dhale'a city, Al Houd, Al Kabar, Al Jaleelah and Al Wa'erah. The operation resulted in 10 civilians killed, including two children, and 20 civilians injured. According to the information available, shelling began when armed men affiliated with Al Hirak attacked a checkpoint manned by the thirty-third brigade and crossfire between the two groups led to a number of casualties.

27. According to local NGOs, between December 2013 and February 2014, at least 43 individuals were killed, including eight children, and 70 civilians were injured as part of the military operations in Al Dhale'a. At the time of reporting, no report from the investigation commission had been issued and no individuals connected to the incidents had been prosecuted.

C. Death penalty

28. Yemen has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. National legislation in Yemen imposes death penalty sentences for a very wide range of offences,⁷ including for financial crimes, blasphemy, offences committed under Hodoud (religiously ordained crimes) and Qisas (death in retribution), drug-related offences as well as crimes that appear to have a political dimension. The Penal Law maintains death by stoning for extramarital heterosexual and homosexual intercourse.⁸ The Law also prescribes death by stoning for extramarital heterosexual and consensual adult homosexual conduct.

29. Yemen has not established a moratorium on the use of the death penalty and it continues to impose capital punishment. According to official figures provided by the General Prosecutor's Office, between 1 July 2013 and April 2014, authorities executed 15 adults. At the time of writing the present report, there were 52 persons on death row believed to have been under 18 years of age when they committed offences. UNICEF submitted the list of 52 death row prisoners to the Office of the President of Yemen with a

⁷ A total of 315 types of offence are punishable by the death penalty. In Yemen the death penalty is provided for in four main laws: the 1994 Penal Law, the 1998 Law on combating kidnappings, the 1998 military Penal Code; and the 1993 Law on combating trafficking and illicit use of drugs and psychotropic substances. The draft Law on combating human trafficking proposes to introduce a new sentence punishable by death.

⁸ In accordance with international human rights jurisprudence, these crimes do not meet the threshold of "most serious crimes" and must not be punishable by death (A/HRC/27/23, paras. 28–39).

request to suspend all executions in those cases. The Office instructed the relevant bodies to suspend all executions and also asked the Supreme Court to form a committee to review those cases and to make recommendations.

30. While the Penal Law prohibits the death penalty for minors, courts still sentence to death minors or adults who committed crimes while under 18 years old. The practice is attributed, among other factors, to the difficulty in determining the age of offenders in the absence of birth certificates.

31. The death penalty was addressed during the National Dialogue Conference: the Working Group on Rights and Freedoms recommended that: "No laws shall authorize the imposition of the death penalty, with the exception of the offences under the categories of *Hodoud* (religiously ordained crimes) and *Qisas* (death in retribution)." This recommendation will be taken into consideration by the Constitution Drafting Commission when amending the relevant laws.⁹

D. Enforced disappearances, fair trial and prison conditions

32. Despite Cabinet decision No. 180 (2012) to release all those detained in relation to their participation in the 2011 events, 16 individuals have remained in custody.¹⁰ At the time of drafting the present report, the detainees' families did not have any information on the whereabouts of their relatives.

33. With regard to the case of the Presidential Mosque bombing,¹¹ in which several people including former President Saleh, were injured or died, President Hadi issued a decree on 4 June 2013 to release 19 of the 22 detainees held in connection with the case. The Attorney General decided to release 17 of them, who were freed on 6 June 2013, and undertook to speedily conclude the investigation of the remaining five detainees. In January 2014, the five detainees started a hunger strike protesting against the length of their detention without trial. OHCHR visited the five detainees in the Central Prison of Sana'a on 5 January 2014. They affirmed that the last court session on their case had been held on 5 March 2013, when the chief of the Criminal Specialized Court referred the case to the Supreme Judiciary Council and assigned a new judge to the case.

34. In April 2014, OHCHR visited the Al Dhale'a Central Prison, where it received 14 complaints from detainees whose trial had been overdue since November 2013. The prison management stated that the cases had not been processed owing to various security challenges and the fact that judges had gone on strike.

35. During the reporting period, OHCHR received complaints regarding arbitrary detentions by the National Security Office and the Political Security Office. OHCHR also received several reports of detention by the National Security Office of nationals of Yemen returning from Saudi Arabia upon their arrival at Sana'a airport.

36. OHCHR conducted several visits to prisons¹² and found that conditions remained very poor, particularly with regard to hygiene and sanitation facilities. Detainees, most of

⁹ During its 2013 review, Yemen accepted the universal periodic review recommendation on a review of its death penalty legislation, to bring it into compliance with the International Covenant on Civil and Political Rights, particularly to ensure that the death penalty did not apply to minors. The review also recommended reducing the number of crimes that are punishable by the death penalty, excluding the death penalty for crimes concerning drugs (A/HRC/WG.6/18/L.6, paras. 115.54–55).

¹⁰ According to sources, one of the demonstrators arrested in 2011 was released in July 2013.

¹¹ See A/HRC/24/34, para. 21.

¹² Aden, Al Dhale'a and Sana'a Central Prisons.

them suffering from skin diseases, reported serious health issues and limited access to adequate medical services.¹³

E. Rights to freedoms of expression, peaceful assembly and association

37. The situation of media freedoms and the safety and security of journalists deteriorated during the reporting period. OHCHR interviewed and documented cases of journalists as well as media who had been subjected to threats and physical attacks by security forces and unknown armed men. On 11 June 2014, the Presidential Guard stormed the offices of the satellite TV channel *Yemen Today* stopping its broadcast and confiscating equipment. On the same day, the *Yemen Today* newspaper was also closed by the Presidential Guard. As reported in the media, the Presidential Guard did not present any written orders from the Public Prosecution.

38. According to local sources, more than 197 cases of violations against journalists were reported. These included threats, physical attacks and attempted assassinations. For instance, on 28 November 2013, the Chief Editor of *Masa Press* survived an assassination attempt. According to local NGOs, 62 court cases were brought against individual journalists on different charges. As widely reported in the press, some international correspondents were denied entry or expelled from Yemen.¹⁴

39. The draft Law on Press and Publications¹⁵ was reviewed by the Parliamentary Media Committee, which submitted its comments to the Parliament in September 2013. No further development on the draft law has been recorded. A draft Media Law, prepared by an expert committee, was submitted to the Parliament on 2 July 2013. The Parliamentary Media Committee submitted its comments in February 2014. Members of Parliament suggested that the draft should include press, publication, audiovisual and electronic media.

40. Peaceful demonstrations and sit-ins by various groups continued to take place throughout Yemen. In southern Yemen, some demonstrations have been repressed with force by Government security forces. According to local NGOs, on 21 February 2014, one person was killed during demonstrations in Aden, while another 20 were injured as anti-riot forces attempted to disperse the protesters. In this context, during a protest in Al Mukallah city, one person was killed by Government forces. At the same event, national authorities reportedly detained seven protesters. The protests were organized by the pro-separatist southern movement Al Hirak to express dissatisfaction with the National Dialogue Conference outcomes and to mark the events that had left 10 people dead on 21 February 2013 during a pro-south demonstration in Aden.¹⁶

F. Judiciary

41. On 10 November 2013, the Parliament adopted amendments to the Judicial Authority Law. The law, which provides for more independence of the Supreme Judicial

¹³ During the visit to Al Dhale'a prison, OHCHR found four women detainees held in one small cell without any access to special premises for sanitation, food or recreation. OHCHR also documented the case of seven boys held in shared cells with adult men.

¹⁴ Committee to Protect Journalists, available from www.cpj.org/2014/05/yemen-expels-1-international-journalist-bars-another.php.

¹⁵ See A/HRC/24/34, para. 33.

¹⁶ Ibid., para. 32.

Council from the executive power, was amended moving some of the competencies traditionally under the Minister of Justice to the Supreme Judicial Council.¹⁷

42. On 28 March 2014, a nationwide strike of judges was initiated. Judges continue to lament poor working conditions and fear for their personal safety. The strike was triggered by the kidnapping on 26 March 2014 of a judge inside the court premises in Hajjah Governorate. The strike ended on 27 May 2014 following an agreement between the Supreme Judicial Council and the Judges' Club to undertake comprehensive reforms in the judicial system. The Club recorded a total of 63 attacks against judges during 2013, and 58 attacks in the first quarter of 2014, including death threats, armed attacks inside courtrooms, kidnappings and physical and verbal harassment.

G. Children's rights

43. The National Dialogue Conference Outcome Document introduced important recommendations on children's rights and proposed guidelines and standards to be adopted in the new Constitution. Those included establishing adulthood at 18 years and setting the minimum age for marriage at 18 years. The Outcome Document called for the prohibition of recruitment and use of children in military groups. It also highlighted other child rights issues including their right to education, the rights of disabled children, the prohibition of the juvenile death penalty, the prohibition and criminalization of female genital mutilation, stressing the best interests of the child in all actions and decisions relating to children. Following the adoption of the Outcome Document, a draft Child Rights Law was prepared by a committee chaired by the Ministry of Legal Affairs and presented on 14 May 2014 to the Cabinet for approval.

44. On 14 May 2014, the Government of Yemen signed an Action Plan to end and prevent the recruitment and use of children by the Yemeni Armed Forces.¹⁸ The Action Plan set out concrete steps to release all children recruited by government security forces, reintegrate them into their communities and prevent further recruitment. Currently, follow-up mechanisms are being established as defined in the provisions of the Action Plan. These include a Joint Technical Committee composed of relevant ministries, the Higher Council for Motherhood and Childhood and the civil registration authorities, together with United Nations representatives. The main objective of the Committee is to facilitate the implementation and monitoring of the Action Plan. Military and civilian focal points have been appointed to supervise the Committee. Additionally, an interministerial task force for children will be set up to address core issues around children and armed conflict.

45. Despite some progress made, children continue to be recruited by various armed forces and armed groups. Four parties in Yemen, particularly Al Houthi/Ansar Allah, pro-Government militias, Government forces and Ansar al-Sharia have reportedly been recruiting children.¹⁹ According to UNICEF, during the reporting period, 122 boys were

¹⁷ According to the new amendments, the following authorities were transferred from the Ministry of Justice to the Supreme Judicial Council: nomination of Supreme Court judges; appointment and transfer of judges; control over the Judicial Inspection Body. In addition, the Minister of Justice no longer retains the right to send warnings to judges.

¹⁸ The Action Plan was signed by the co-chairs of the United Nations country task force on monitoring and reporting grave violations of children's rights in situations of armed conflict, the United Nations Resident Coordinator in Yemen and the UNICEF Representative; and on part of the Government, the Minister of Defence, Chief of General Staff, Maj. Gen. Ahmed Ali Al-Ashwal. The signing was witnessed by the Special Representative of the Secretary-General for Children and Armed Conflict and the Prime Minister of Yemen.

¹⁹ See the Report of the Secretary-General on children and armed conflict (A/67/845-S/2013/245).

reported as recruited and used by armed forces, which represented an increase of 15 per cent from the previous reporting period.

46. Children continued to be victims of killing and maiming due to the conflicts in the north and the south of the country. According to UNICEF, there was a 29 per cent increase in children affected by armed conflicts, with a total 229 children (190 boys, 39 girls) killed and 188 maimed. A significant increase in child casualties was recorded in Al Dhale'a Governorate due to armed clashes and attacks by Yemeni Armed Forces.

47. Throughout 2013, over 560 unaccompanied children from Yemen were caught at the borders crossing illegally into or being returned from Saudi Arabia or were stranded in Haradh while attempting to reach Saudi Arabia.²⁰ In addition, many children escaped the famine and drought in the Horn of Africa and undertook the hazardous journey with the help of smugglers across the Gulf of Aden to reach the shores of Yemen. According to UNICEF, out of 271 unaccompanied children from Ethiopia assisted in Haradh, the vast majority ended up in the hands of traffickers and experienced terrible ordeals. A significant number of them, mostly boys between 13 and 15 years of age, were detained in adult prisons because they did not possess any identification confirming their age.

H. Women's rights

48. At the National Dialogue Conference, among the participants of which 30 per cent were women, the Working Group on Rights and Freedoms recommended that the principle of equality be at the core of the Constitution. Other recommendations set the minimum age of marriage at 18 years, addressed violence against women and set a 30 per cent quota for women's participation in public service as well as in State-elected bodies. Following the finalization of the Conference, four women were elected on the Constitutional Drafting Commission.

49. As a result of conflict and displacement, gender-based violence was increasingly reported. This particularly affected internally displaced persons, migrants and other communities touched by conflict. Sexual violence, domestic violence and cases of early marriage were also recorded by the United Nations Population Fund (UNFPA).²¹ Despite the informal reports, survivors often did not report the violence committed against them, fearing retribution from the assailants. Women were often denied access to services due to traditional practices, such as that male spouses or relatives should provide authorization for women to seek health care and/or other forms of aid. In general, women refrained from disclosing gender-based violence because of stigma, fear of reprisals or honour killings.

50. There is a major gap with regard to prosecution of sexual violence. The Penal Code does not include a basic definition of sexual violence compliant with international human rights standards and does not incorporate any sections on war crimes and crimes against humanity. This translates into a complete absence of provisions regarding sexual-violence related to conflict.

²⁰ According to UNICEF, 377 unaccompanied children were expelled from Saudi Arabia in 2013; 85 were caught by general security officers; 13 by border guards; one by central security and seven children went voluntarily to the centre. In the first half of 2014, 290 unaccompanied children were expelled from Saudi Arabia; 82 were caught by general security officers; one by border guards and three children went voluntarily to the centre.

²¹ Between January and May 2014, UNFPA recorded 752 cases of violence against women in conflict-affected areas including rape, sexual and physical assault, psychological abuse, denial of resources as well as early and forced marriages.

51. A legislative amendment to the nationality law of Yemen was introduced in 2010²² allowing a child born to a Yemeni mother to gain Yemeni nationality when the father is a foreigner, unknown or when descent is not sure. However, it was not clear what the status of this law was and the degree to which it was being implemented.

I. Refugees, migrants, asylum seekers and internally displaced persons

52. While a signatory to the 1951 Convention relating to the Status of Refugees, Yemen has not incorporated the Convention into national refugee-specific legislation or established a refugee status determination procedure. In the absence of such legislation, the legal status of asylum seekers and refugees has been governed by a mix of decrees and provisions, inter alia, Republican Decree No. 47/1991 on the entry and residence of foreigners. That gap in the legislation has led to different approaches, for example between nationals of Somalia and non-Somali individuals in need of international protection. In this regard, the Government accorded refugee status on a prima facie basis to Somali refugees, whereas the Office of the United Nations High Commissioner for Refugees (UNHCR) conducted refugee status determination for all other asylum seekers.

53. During the reporting period, Yemen dealt with a mixed flow of refugees, asylum seekers and migrants seeking safety, protection or economic opportunities. Transit centres and reception centres were fully managed by UNHCR and its implementing partners without an active role by the Government. Refugee women and children were particularly vulnerable as they were often kidnapped and held hostage by smugglers or traffickers.

54. As of July 2014, over 200 asylum seekers from Eritrea had been detained in Hodeida Detention Centre, some since 2011, allegedly for security reasons. In February 2014, as a result of UNHCR intervention, 161 Eritrean individuals were released and moved to Sana'a.

55. According to OCHA, during the last week of May 2014, heavy fighting between militants and government forces in Amran Governorate, northern Yemen, triggered the displacement of up to 20,000 people. It was unclear if some of those people included those who had been displaced in earlier clashes from October 2013 to March 2014. In the south of the country, another 20,000 people were displaced during military operations against AQAP, which began on 29 April 2014. The Deputy Governor in Shabwah reported to OCHA that 80 per cent of the displaced people in the Governorate had later returned home. The majority of the displaced in Abyan were also reported to be returning home. An unknown number continued to live in public facilities because their homes had been destroyed, and they needed humanitarian assistance.²³

56. During the reporting period, hundreds of men, women and children were reported as trafficked, primarily for the purpose of forced labour, forced begging, domestic servitude and sexual exploitation. Included were individuals trafficked from abroad, but there were also cases of internally displaced children recruited by traffickers in camps and trafficked to Saudi Arabia.

57. Progress was recorded in the Government's efforts to establish institutional mechanisms to counter human trafficking. A functioning National Technical Committee to Counter Human Trafficking, chaired by the Minister of Human Rights, was established in February 2013. Comprehensive legislation criminalizing all forms of human trafficking was

²² Nationality Law No. 6/1990.

²³ OCHA, Humanitarian Bulletin, issue 24, 13 May–5 June, available from <http://yemen.humanitarianresponse.info/>.

drafted by the Ministry of Justice, reviewed by the Committee and later submitted to the Parliament.

J. Marginalized groups

58. The Muhamasheen community has been successful in advocating its rights in the National Dialogue Conference, especially in the area of participation in the public sphere. The Conference's Working Group on Rights and Freedoms recommended a 10 per cent participation in employment in public services, as well as equal access in leadership and decision-making positions. The Conference outcomes also focused on the development of a specialized national body to ensure Muhamasheen integration into society, particularly in accessing justice, education and training as well as military service. Other outcomes called for the drafting of national plans for the Muhamasheen community to claim their rights.

59. Despite this progress, Yemen's marginalized communities continue to be victims of attacks or neglect by the authorities. The National Muhamasheen Union reported several attacks against communities across the country, which resulted in their displacement from temporary built homes. OHCHR-Yemen recorded two cases of forced displacement in the Ta'izz Governorate.²⁴

K. Cooperation with the Office of the United Nations High Commissioner for Human Rights

60. On 26 September 2012, OHCHR and the Government of Yemen signed a host country agreement formally establishing an OHCHR field presence in Yemen. Its premises were officially inaugurated on 30 September 2013, under the auspices of the United Nations Deputy High Commissioner for Human Rights.

61. During the reporting period, OHCHR continued to provide support towards the development of the draft transitional justice law. As part of the OHCHR-UNDP transitional justice programme, countrywide consultations on transitional justice were organized between government representatives and civil society. These consultations enabled the parties to reach consensus about human rights violations and sensitive political issues, with the aim of overcoming the sectarian divide. The consultative process included sections of society that had previously been excluded, such as Houthi representatives, citizens from southern governorates, victims' associations and tribesmen. More than 700 Yemenis were involved in the events.

62. Parallel consultations on the draft law on Transitional Justice and National Reconciliation were organized by OHCHR. Subsequently, comments on the law were submitted to the Minister of Legal Affairs, who in turn submitted the revised law in May 2014 to the Cabinet for further elaboration. In the context of the transitional justice programme, OHCHR and UNDP supported the Ministry in establishing a transitional justice office and trained Ministry staff on transitional justice.

²⁴ In an incident in the village of Jabal Habash, clashes between the Muhamasheen and the resident communities resulted in 25 households being displaced, with local authorities not intervening to protect the Al-Muhamasheen community. In the second incident, in the Al Jomalh area, a temporary Muhamasheen settlement, consisting of 62 households and approximately 300 members, who had been living on the land for 30 years, was threatened with eviction when a businessman purchased the land. The Governor of Ta'izz promised the community a new piece of land. However, at the time of reporting, no land had been identified.

63. OHCHR and UNDP provided support to the Land and Dismissals Commissions through the creation of a database and succeeded in enabling the commissions to properly aggregate and disaggregate cases, issue reports and analysis regarding specific case and patterns of crime, protect documentation and register new claims electronically. The programme also supported the Land Commission in designing a plan to deal with mass claims. It is expected that both the Land and Dismissals Commissions will issue recommendations for at least 20 per cent of cases until the end of 2014.

64. In cooperation with the Office of the Special Adviser to the Secretary-General on Yemen and other United Nations agencies, OHCHR supported the Constitutional Drafting Commission to integrate international human rights standards into the new Constitution.

65. In cooperation with UNDP, OHCHR supported the national consultations on the first National Human Rights Plan of Yemen, which adopted a framework for the development of the Plan.

66. OHCHR and UNDP provided technical support and expertise to the Ministry of Human Rights in preparing the law establishing the National Human Rights Institution. They also carried out broad consultations with civil society on the draft law and supported advocacy with parliamentarians. The draft law was referred to the Parliament in January 2014.

67. OHCHR together with other United Nations entities provided technical support to the parliamentary committees working on the law to combat trafficking. This included advice on international human rights standards on prevention and combating trafficking as well as on protection and reintegration of victims.

68. OHCHR provided capacity-building to human rights NGOs on human rights monitoring and reporting; integrating a bill of rights into the Constitution; non-discrimination of marginalized groups; as well as a national human rights institution.

69. In the framework of the Peacebuilding Fund, OHCHR signed a technical assistance agreement with the Ministry of the Interior to provide technical assistance to the reform of the security sector and incorporate human rights standards into legislation, codes of conduct and training programmes for the police.

IV. Recommendations

70. The High Commissioner notes the progress achieved so far to strengthen promotion and protection of human rights in Yemen, particularly the process that ended in the National Dialogue Conference. She remains mindful of the significant security, political, and humanitarian challenges faced by the country. In line with her previous recommendations and based on the observations of her Office in Yemen, the High Commissioner:

(a) Welcomes the conclusion of the National Dialogue Conference and the inclusiveness of the process. She notes with appreciation the consensus reached over the outcomes of the Conference pertaining to human rights especially with regard to the rights of women, children and marginalized communities;

(b) Regrets that the overall security situation has escalated into intermittent conflict since October 2013, and urges all parties involved to end the conflict and respect their obligations under international humanitarian and human rights law and contribute to the peaceful transition process;

(c) Deplores that no independent and effective investigations have been conducted in relation to allegations of the excessive use of force and grave human

rights violations committed in Al-Dhale'a, Amran and other regions, in particular in cases resulting in deaths and attacks against civilian targets such as schools and hospitals. Regrets that no immediate safe access was provided for humanitarian organizations to assist the affected population;

(d) Calls for the swift approval by the Parliament to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the accession to the Rome Statute of the International Criminal Court; she also calls for the Parliament to endorse the Law on Enforced Disappearances and the draft law establishing the national human rights institution;

(e) Notes the progress made in receiving individual claims by the Commission to Consider and Address Land Issues and the Commission on Forcibly Dismissed Employees for Southern Yemen as a demonstration of the Government's commitment to addressing long-standing grievances and to create confidence and strongly encourages the Government to act upon the Commissions' recommendations;

(f) Regrets that, since September 2012, no appointments have been made of the commissioners on the national commission of inquiry into allegations of human rights violations that occurred in 2011. This delay hampers the credibility of any investigation and points to a lack of solid commitment by the Government towards redress and justice for victims of past human rights violations;

(g) Regrets that a decision on the Law on Transitional Justice and National Reconciliation has yet to be adopted, despite repeated requests by the Security Council and the Human Rights Council among others. Encourages the Government to cooperate with OHCHR in order to fully align the law with international human rights norms, standards and best practices;

(h) Expresses her concern over the continued detention of individuals arrested in connection with the 2011 events, despite formal commitments towards their release; notes the frequent practice of prolonged detention without trial or without proper arrest warrants and documentation; and is further concerned that peaceful protests, particularly in southern Yemen, are often suppressed, at times with force, with reported arrests, injuries or deaths of protesters;

(i) Encourages the Government to cooperate with the United Nations human rights mechanisms, particularly by extending a standing invitation to special procedures.

71. The High Commissioner recommends that the Government of Yemen take the following measures, some of them reiterated from her previous reports:

(a) Expedite the establishment of the national commission of inquiry by naming its members and providing it with all facilities to carry out its task immediately;

(b) Repeal Amnesty Law No. 1 (2012) and comply with international human rights law prohibiting immunity for those responsible for serious human rights violations, including war crimes and crimes against humanity;

(c) Cooperate with OHCHR to revise the draft Law on Transitional Justice and National Reconciliation to be in conformity with international norms, standards and best practices;

(d) Release all individuals imprisoned for their peaceful participation in the 2011 events and, according to due process and fair trial standards, verify the names of missing persons and inform their families of their whereabouts; and put an end to the

practice of arbitrary detentions conducted by National Security Forces and Political Security Offices;

(e) Ensure independent and effective investigations in relation to allegations of the excessive use of force and grave human rights violations in Al-Dhale'a, Amran and other regions, in particular in cases resulting in the death of individuals and attacks against civilian targets such as schools and hospitals. The investigations should be conducted by independent and non-military bodies, the results of the investigations should be made public and those proved to be guilty should be held accountable;

(f) Ensure immediate, safe and unimpeded access of humanitarian organizations into all areas affected by armed conflicts;

(g) Ensure the safety and security of foreign and local journalists and ensure that they have access to all sources of information without fear of retaliation;

(h) Ensure that women's participation and women's rights are taken into due consideration in the Constitution drafting process;

(i) Ensure implementation of the Action Plan to end and prevent the recruitment and use of children by the Yemeni Armed Forces;

(j) Ensure that the National Dialogue Conference outcomes regarding Muhamasheen and other minorities are incorporated into the new Constitution and implemented into practice;

(k) Enact the law to criminalize human trafficking and develop official standard operating procedures that operationalize the law and help to identify and assist victims of trafficking, and investigate and prosecute perpetrators;

(l) Establish a moratorium on the use of the death penalty pursuant to moratorium resolutions of the General Assembly. Until then, the Government should ensure scrupulous respect of due process-related rights, including fair trial guarantees in cases involving the death penalty, and ensure that the death penalty is not applied to minors;

(m) Ensure that counter-terrorism policies and strategies comply fully with international law, including human rights law. In this regard, ensure that any use of lethal force, including through the use of armed drones, complies fully with relevant international law, including the obligations of Yemen under international human rights law. Where violations of the law occur, conduct independent, impartial, prompt and effective investigations, and provide victims or their relatives with an effective remedy. Similarly, ensure transparency and public reporting over the use of armed drones.

72. The High Commissioner recommends that the international community:

(a) Encourage prompt, independent and impartial investigations into serious human rights violations that have resulted in loss of life and/or serious injury. Once they have been conducted, extend the necessary and appropriate support to the Government of Yemen in order to ensure accountability and appropriate remedy for any human rights violations;

(b) Encourage the establishment, in consultation with the Government of Yemen, of an independent, international mechanism to investigate violations of human rights that took place in 2011;

(c) Cooperate with the panel of experts charged with investigating individuals or entities engaging in or providing support for acts that threaten the peace, security or stability of Yemen pursuant to Security Council resolution 2140

(2014). In this regard, submit relevant information that meets the designation criteria for sanctions against spoilers, including planning, directing or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses in Yemen;

(d) Provide all necessary financial and technical support for the Government's transitional plan, in particular with regard to those aspects concerning the restoration of the rule of law, the consolidation of human rights protection mechanisms and programmes, and the promotion of human rights;

(e) Heed the call for humanitarian assistance and provide financial support to the Yemen humanitarian response plan for 2014.
